

CHAPTER 4

FEES, LICENSES, PERMITS, AND FRANCHISES

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CHAPTER 4

FEES, LICENSES, PERMITS, AND FRANCHISES

ARTICLE 1. GENERAL LICENSING AND PERMITTING PROCEDURES.

Sec. 4-1 Authority to License.

The City has the authority to impose a license fee reasonably related to the administrative cost of exercising its regulatory powers.

Sec. 4-2 Compliance.

No person shall engage in any trade, profession, business or privilege in the City for which a license or permit is required by any provision of this *Code* without first obtaining such license or permit from the City in the manner provided in this Article, unless otherwise specifically provided. (*Code* 1968, § 31.01; *1983 Greenwood Municipal Code*, § 7-16)

Sec. 4-3 Applications.

Unless otherwise provided, application for a license or permit shall be made in writing to the Clerk-Treasurer upon forms prescribed by the City and applicant shall state his name and address, the location of the proposed activity and such other facts as may be required for, or be applicable to, the granting of the license or permit. (*Code* 1968, § 31.02; *1983 Greenwood Municipal Code*, § 7-17)

Sec. 4-4 Reserved for Future Use.

Sec. 4-5 Payment of Fee.²

The fees required for any license or permit shall be paid at the office of the Clerk-Treasurer before the granting of the license or permit. The Clerk-Treasurer shall issue a receipt for the fee and shall issue the license or permit to the applicant. Unless otherwise provided, no fee shall be prorated for a portion of a year, and no fee paid shall be refunded, unless the license or permit is denied. (*Code* 1968, § 31.03; *1983 Greenwood Municipal Code*, § 7-18)

¹ *I.C.*, 36-1-3-8(5), provides for such authority for Cities.

² *I.C.*, 36-4-10-5(10) and (11), provide for such authority for the Clerk-Treasurer.

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Sec. 4-6 Bonds and Insurance.

All required bonds shall be executed by two (2) sureties, or a surety company, and be subject to the approval of the Mayor. Where policies of insurance are required, such policies shall be approved as to substance and form by the City Attorney. Each insurance policy shall provide that it is noncancelable without fifteen (15) days' written notice to the City, and the coverage shall be for the term of the license. Satisfactory evidence of coverage by bond or insurance shall be filed with the Clerk-Treasurer before the license or permit is issued. (*Code* 1968, § 31.04; *1983 Greenwood Municipal Code*, § 7-19)

Sec. 4-7 Inspections.³

The Police Department shall have the authority to inspect all establishments subject to the provisions of this Chapter which are required to have a valid license or permit.

Sec. 4-8 Approval or Denial and Appeals.

(a) Where the approval of any City officer or state officer is required prior to the issuance of any license or permit, such approval must be presented to the Clerk-Treasurer before any license or permit is issued.

(b) No license or permit shall be approved by any City officer or issued by the Clerk-Treasurer if it appears that the conduct of the activity for which a license or permit is sought will be contrary to the health, safety or welfare of the public or any regulation, law or ordinance applicable to such activity. (*Code* 1968, § 31.05; *1983 Greenwood Municipal Code*, § 7-20)

(c) Any applicant for a license may appeal a denial of a license or permit in writing within ten (10) days after the decision is made, with such appeal being heard by the Board of Public Works and Safety at their next regularly scheduled meeting.

Sec. 4-9 Form and Records.

License or permit certificates shall show the date of issue, the activity licensed and the term of the license or permit, and shall be signed in the name of the City by the Mayor or Clerk-Treasurer and be impressed with the City seal. The Clerk-Treasurer shall keep a record of all licenses and permits issued. (*Code* 1968, § 31.06; *1983 Greenwood Municipal Code*, § 7-21)

Sec. 4-10 Term.

(a) Unless otherwise provided, the term of the license year shall be the calendar year.

³ *I.C.*, 36-8-3-10(13), authorizes such inspections, and *I.C.*, 36-8-2-10, permits cities to regulate businesses.

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(b) Where the issuance of licenses for periods of less than one (1) year is permitted, the effective date of such license shall commence with the date of issuance.

(c) Permits shall be issued for the term set forth in the permit. (*Code* 1968, § 31.07; *1983 Greenwood Municipal Code*, § 7-22)

Sec. 4-11 License or Permit to be Displayed.

Every licensee or permittee shall carry his license or permit certificate upon his person at all times when engaged in the activity for which the license or permit was granted; except that where such activity is conducted at a fixed place or establishment, the license or permit certificate shall be exhibited in some conspicuous place in his place of business. The licensee or permittee shall exhibit the license certificate when applying for a renewal and upon demand of any police officer or person representing the issuing authority. (*Code* 1968, § 31.08; *1983 Greenwood Municipal Code*, § 7-23)

Sec. 4-12 Transfer of License/Permit Requiring Approval.

Unless otherwise provided, no license or permit shall be transferable without the authorization of the Mayor or his/her designee. (*Code* 1968, § 31.09; *1983 Greenwood Municipal Code*, § 7-24)

Sec. 4-13 Renewal.

License or permit renewals shall be issued in the same manner and be subject to the same conditions as original licenses or permits. (*Code* 1968, § 31.10; *1983 Greenwood Municipal Code*, § 7-25)

Sec. 4-14 Suspension or Revocation.⁴

Any license or permit issued by the City may be suspended or revoked by the Mayor or his/her designee for any of the following causes:

(a) Fraud, misrepresentation or incorrect statement contained in the application, or made in carrying on the licensed or permitted activity.

(b) Expiration or cancellation of any required bond or insurance.

(c) Actions unauthorized or beyond the scope of the license or permit granted.

(d) Violation of any regulation or provision of this *Code* applicable to the activity for which the license or permit has been granted, or any regulation or law of the state so applicable.

⁴ *I.C.*, 36-4-5-5, sets forth the governing State law.

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(e) Failure to continuously comply with all conditions required as precedent to the approval of the license or permit. (*Code* 1968, § 31.11; *1983 Greenwood Municipal Code*, § 7-27)

Sec. 4-15 Appeals.

Any person aggrieved by the action of any City official in denying or revoking a license or permit shall have the right to a hearing before the Board of Public Works and Safety on any such action, provided a written request therefor is filed with the Clerk-Treasurer within ten (10) days after receipt of the notice of such suspension or revocation of any such license or permit. The action taken by the Board of Public Works and Safety after a hearing shall be final.

Sec. 4-16 Chart on Fees, Permits, and Licenses.

<i>Activity</i>	<i>Fee</i>	<i>Section of Code</i>
Accident Reports	\$ 3.00	4-21
Amusements	10.00 Daily	4-28
Bicycle License	no fee	8-88
Bicycle License Transfer	1.00	8-90
Billiard Rooms	50.00 1st Table	4-34 et seq.
	25.00 2nd Table	4-34 et seq.
	10.00 3rd Table	4-34 et seq.
	and more	
Circus	100.00 Daily	4-32
Copying Public Documents	.10 per page	4-50
Dog Tags	2.00	4-60
Electronic Game Rooms	50.00 1st machine	4-35 et seq.
	25.00 2nd machine	4-35 et seq.
	10.00 3rd machine	4-35 et seq.
	and more	

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<i>Activity</i>	<i>Fee</i>	<i>Section of Code</i>
Ferris Wheel	10.00 Daily	4-28
Industrial Discharge Permit	25.00/100.00 renewal	9-80
Massage Establishment	25.00	4-87
Masseurs/Masseuses	5.00	4-94
Merry-Go-Round	10.00 Daily	4-28
Official Documents		see section 4-65
Official Fee Schedule		see section 4-65
Peddlers	10.00 per day 50.00 per week 75.00 per 6 months	4-103
Shooting Gallery	36.00 for 3 months	4-28
Solicitors	10.00 per day 50.00 per week 75.00 per 6 months	4-103
Street Vendors	5.00 per day 20.00 per week 50.00 per 6 months 80.00 per year	4-106
Taxicabs	100.00 (1) 50.00 ea. next (2) 25.00 ea. next (2) 10.00 ea. over (5)	4-134

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<i>Activity</i>	<i>Fee</i>	<i>Section of Code</i>
Transient Merchant	10.00 per day	4-103
	50.00 per week	
	75.00 per 6 months	
Traffic Accident Report	3.00	4-21
Trash Collectors	25.00	4-111
Vehicle Inspection Fee	3.00	4-120

Sec. 4-17 through 4-20 Reserved for Future Use.

Pages 138 through 141 Reserved for Future Use.

ARTICLE 2. SPECIFIC ACTIVITIES REGULATED

Division I. Fees Established.

Sec. 4-21 Accident Reports (Traffic).⁵

The fee for each accident report shall be Five Dollars (\$5.00) for any report up to two (2) pages in length, with an additional charge of One Dollar (\$1.00) per page for any page thereafter, with said monies being deposited in the Law Enforcement Continuing Education Fund addressed in Section 2-90 of this *Code*. (Ord. No. 06-25, § 3, 9-6-06)

Sec 4-22 through 4-27 Reserved for Future Use.

Pages 143 through 148 Reserved for Future Use.

⁵ *I.C.*, 9-3-1-3, authorizes a fee fixed by ordinance of not less than \$3.00 for each accident report with such monies being deposited into the Accident Report Account.

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Division II. Amusements.

Sec. 4-28 Amusements for Fees.

(a) No person shall operate a "merry-go-round" or "ferris wheel" or any similar device, or any carnival or circus or any concert, show, theatrical entertainment or other exhibition, where a charge is made for attending any such performance or using any such machine or device, or either of any such means are used for the purpose of attracting persons in order to sell any goods or merchandise, without a license so to do. This subsection does not apply to lectures on any benevolent or literary subject, or to the display of specimens of fine art, nor to any entertainment of amateurs or other home talent companies or groups of persons, or religious or fraternal groups. The license fee for such license is Ten Dollars (\$10.00) for each day such entertainment is operated.

(b) No person shall operate or maintain any shooting gallery within the City for gain without a license therefor. The license fee for such license is Thirty-Six Dollars (\$36.00) for three (3) months. (*Code 1968, §§ 32.05, 32.06; 1983 Greenwood Municipal Code, § 7-2*)

Sec. 4-29 Carnivals and Circus Permits-Definitions.

(a) **CARNIVAL** as used herein shall mean and include amusement activities, rides, merry-go-rounds, booths for the conduct of games of skill, food dispensing facilities and sideshows presented by traveling companies.

(b) **CIRCUS** as used herein shall mean and include performances given by traveling companies on vacant lots with tents, or some other kind of temporary enclosure, where performances are given for a fee. Performances may include, but are not limited to: trained animal acts, races, feats of horsemanship, acrobatics, strength, trapeze acting, or clowns.

Sec. 4-30 Application and Permit Procedures.

(a) It shall be unlawful to conduct or operate any carnival or circus which is open to the public and for admittance to such carnival, circus, or the attractions therein, a fee is charged, without first obtaining a permit from the City Clerk-Treasurer after approval by the Board of Public Works and Safety.

(b) Application. Each applicant for a permit under this Section shall procure from the Clerk of the Board of Public Works and Safety an application for such license which must be filed at least thirty (30) days prior to the proposed carnival or circus.

(c) Circuses or carnivals operated by churches, schools and charitable organizations as fundraisers are exempt from the requirements of Sections 4-28, 4-31 and 4-32 (a) and (b), but shall comply with all other requirements of this Division.

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(d) The application shall require the applicant to furnish information, including but not limited to the following:

- (1) Legal name of the applicant and position;
- (2) Present address and telephone number of the applicant;
- (3) Name and address of the traveling company or organization;
- (4) Location of the proposed carnival or circus;
- (5) Proposed dates of the circus or carnival to be in the City;
- (6) Number and types of sideshows, concessions, and rides to be included therein;
- (7) Date of issuance and number of licenses issued by the City for vendors associated with the circus or carnival;
- (8) References of other cities and towns recently visited by the applicant.

(e) Application Procedures:

(1) Each completed application for a permit under this Section shall be accompanied by a site plan, drawing or diagram, showing the location and the layout of the proposed carnival or circus, and proof of required public liability insurance.

(2) Upon the filing of a completed application, the same shall be referred to the Mayor and thereafter shall be referred by the Mayor to the following departments or agencies for review and recommendation:

(A) To the Chief of Police or his/her designee thereof, for a background check of the applicant and for recommendations for crowd and noise control, litter control, proper restroom facilities, security and other matters related to public safety. The Chief of Police shall also refer the application to the County Health Department.

(B) To the Fire Chief or his/her designee for a check of ingress and egress to the proposed site for proper emergency fire lanes, parking, and other matters related to public safety.

(3) The Mayor may request or receive inspection reports and recommendations from any other department or bureau prior to or after issuance of a permit.

(4) Each of the individuals listed in subsection (c) (2) (A) and (B) *supra*, shall file a signed written report with the Mayor.

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(5) The Mayor may approve each permit application if it meets all of the requirements of this Section, and will not be injurious to the public health, safety, and welfare.

(6) Any applicant may appeal a denial of a permit pursuant to the procedures set forth in Section 4-8 of this *Code*.

Sec. 4-31 Liability Insurance Required.

No permit shall be issued unless the applicant files with the Mayor a certificate or certificates of insurance indicating that there is in effect public liability insurance covering any damages arising out of the use and operation of any and all devices and facilities operated in connection with such carnival or circus. Such insurance shall be in the minimum amount of Five Hundred Thousand Dollars (\$500,000.00) for each person, and One Million Dollars (\$1,000,000.00) for each occurrence. Said Policy shall also contain a provision specifically holding the City of Greenwood harmless from any liability resulting from such carnival or circus. Workers Compensation Coverage which complies with the requirements of the several statutes of the State of Indiana as further addressed in *I. C., 22-3 et seq.*, shall be in full force and effect during the duration of such carnival or circus.

Sec. 4-32 Fees/Nuisances/Penalties.

(a) The fee for the issuance of a permit under this Section shall be One Hundred Dollars (\$100.00) per day of operation.

(b) All other license requirements of this *Code* shall be complied with by vendors proposing to do business at the carnival or circus.

(c) Hours of Operation: In no event shall such a carnival or circus begin before 10:00 A.M. nor shall it continue past 12:00 midnight.

(d) Violations of Sections Deemed a Nuisance. Any carnival or circus operated, conducted or maintained contrary to the provisions of the Sections addressing carnivals and circuses shall be unlawful and declared a public nuisance.

(e) Penalties: Any person who shall violate any of the provisions of the Sections addressing carnivals and circuses, shall be fined Five Hundred Dollars (\$500.00) and may be subject to the provisions of Section 1-13 of this *Code*, and each such violation shall constitute a separate offense.

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Sec. 4-33 Reserved for Future Use.

Division III. Billiard or Electronic Game Rooms.

Sec. 4-34 Exemptions.

This Division shall not apply to private residences, churches, schools, or to bona fide fraternal clubs regularly operated as such for their members, nor to any business establishment in which there are no pool tables and in which there are no more than three (3) game machines in the business establishment. (Ord. No. 86-10, § 1, 3-3-86)

Sec. 4-35 Licensing of Billiard or Electronic Game Rooms.

No person shall operate a billiard or electronic game room for private profit within the City without a license approved by the Mayor or her or his designee.

Sec. 4-36 Locations Restricted.

(a) The proposed location shall have at least one (1) parking space, nine feet (9') by twenty feet (20'), for each one hundred and fifty (150) square feet of floor space open to the public, with each space having ingress and egress at all times.

(b) Appropriate zoning shall be secured for the proposed location. (Ord. No. 86-10, § 2 (d), 3-3-86; Amended, Ord. No. 94-3, § 1, 2-21-94)

§ 4-37 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-38

Sec. 4-37 Application.

Every applicant for such a license shall file a written application provided for this purpose, stating the full name and address, including street and number, of the applicant and/or other persons associated therewith, and shall give the State in which any corporation or any other business entity is organized, and the names of one or more persons designated as its manager or managers, or who is in charge, with their addresses. The application shall also state the following:

(a) The premises where the billiard room or electronic game room is to be conducted, including street number.

(b) The number of billiard or pool tables or electronic games to be installed on the premises, and the number of square feet of floor space for each table to be operated and number of square feet of floor space open to the public.

(c) The date of birth and social security number of the applicant in the case of individuals, and the age of the manager and officers in the case of any corporation or any other business entity.

(d) Whether an applicant has ever been engaged in operating a billiard room or an electronic game room, and when, where, and how long, in each place, and whether any such license has ever been revoked.

(e) Whether the applicant or manager is a citizen of the United States.

(f) The name and full address of the owner of the premises in which the billiard room or electronic game room is located. The application shall be signed by the applicant, or in the case of a corporation or any other business entity, by the manager, or by any of its officers. (Ord. No. 86-10, § 2(c), 3-3-86)

Sec. 4-38 Mayoral Review.

The Mayor, before issuing a license, shall investigate the character of the applicant. The application shall be rejected if the Mayor, or her or his designee shall find:

(a) that any of the persons named in the application or who will be directly engaged in the management and operation of the billiard room or electronic game room are not of good moral character because of a conviction of a felony or having been found guilty of violating the criminal statutes of the State of Indiana concerning liquor, firearms, or having been convicted of an offense involving sexual misconduct with a child, battery against a child, or of contributing to the delinquency of a minor within the last ten (10) years; or

(b) that any of the persons have previously been connected with a billiard room or electronic game room where the license has been revoked; or

(c) where any provisions of law applicable to billiard rooms or electronic game rooms have been violated; or

§ 4-38 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-40

(d) that the licensing of such billiard or electronic game room by said applicant or the establishment of such billiard or electronic game in the location or structure proposed by said applicant shall be detrimental to the public health, welfare and safety of the citizens of Greenwood because:

- (1) the proposed location's structure violates the *Unsafe Building Code*; or
- (2) the proposed location's structure violates the *Greenwood Building Code*; or
- (3) the proposed location's structure violates the *Greenwood Fire Code* or the *Indiana Fire Prevention Code*; or
- (4) the proposed location violates the provisions of Section 4-36.

Sec. 4-39 License Fees.

The license fee for such license is Fifty Dollars (\$50.00) per year for the first table or game machine, Twenty-Five Dollars (\$25.00) for the second table or game machine, and Ten Dollars (\$10.00) per year for each additional table or game machine. All applications for renewal of license shall be submitted during the month of January of each year. For purposes of this subsection, and only in the case of the first application for license submitted by an applicant, or in the event that there is any increase in the number of machines in any given business establishment after the license has been issued, then such applicant shall for the first license or for such additional machine, pay a sum which shall be determined by dividing the fee as required by this subsection by four (4) and multiplying said number by the number of quarters or fractions of quarters remaining in the calendar year in which said application is made. For purposes of this paragraph the first quarter shall commence on the first day of January, and end on the last day of March of each year, and the second quarter shall commence on the first day of April and end on the last day of June of each year. The third quarter shall commence on the first day of July and end on the last day of September. Finally, the fourth quarter shall commence on the first day of October, and end on the last day of December of each year. (Ord. No. 86-10, § 2(e), 3-3-86)

Sec. 4-40 Revocation and Hearing Procedures.

If at any time subsequent to the issuance of the license as herein provided, the Mayor or her or his designee shall determine that any statement made on the application for license shall be false, or if the Mayor or her or his designee shall determine that any of the persons named in the application or who are directly engaged in the management or operation of the billiard room or electronic game room are not, in fact, of good moral character as defined above, or that any of the persons named on said application have previously been connected with a billiard room or electronic game room where the license has been revoked or where any provisions of law applicable to billiard or electronic game rooms have been violated, or if the Mayor or her or his designee shall subsequently determine that the issuance of the license is detrimental to the public health, welfare and safety of its citizens as set forth above, then the Mayor or her or his designee shall be empowered to revoke said license upon ten (10) days' notice and hearing.

§ 4-41 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-49

Sec. 4-41 License to be Displayed.

All licenses issued pursuant to this Division shall have designated thereon the number of machines in any given business establishment which are licensed. Said license shall be conspicuously displayed in said business establishment and shall be subject to examination or inspection by the general public and any other person at all times. (Ord. No. 86-10, § 2(g), 3-3-86)

Sec. 4-42 Gambling.

No cards shall be played and no gambling shall be permitted in any billiard room, or electronic game room, or in any other room or rooms in which the billiard tables or electronic game machines are located, nor shall any checks be given which can be redeemed for merchandise or cash. (*Code* 1968, § 32.01(h); Ord. No. 81-29, § 1, 10-5-81; Ord. No. 83-7, § 1, 5-16-83; *1983 Greenwood Municipal Code*, § 7-45; Amended, Ord. No. 94-3, §§ 2, 3, 2-21-94.)

Sec. 4-43 through 4-49 Reserved for Future Use.

Pages 156 through 160 Reserved for Future Use.

§ 4-50 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-50

Division IV. Copying of Public Records.⁶

Sec. 4-50 Fee Per Page.

A fee determined according to the schedule listed below shall be paid to the Clerk-Treasurer's office in advance for copies of public records on letter size, legal size and 11" x 17" paper, copies of public records made on the Xerox 2510 Copy Machine presently located in the Engineering Department, and for facsimile transmissions of public records, any of which are requested by a person entitled to a copy of a public record under *I.C., 5-14-3*, and if the public agency which is in possession of the record has reasonable access to a machine capable of mechanically reproducing the public record:

(a) Ten Cents (\$.10) per page for copies on letter size, legal size and 11" x 17" paper;

(b) For copies made on the Xerox 2510 Copy Machine presently located in the Engineering Department:

(1) Bond Paper:	24" x 36"	\$.70 per single sheet
	36" x 50 yd.	\$.55 per foot
(2) Vellum Paper:	24" x 36"	\$1.90 per single sheet
	36" x 50 yd.	\$1.15 per foot
(3) Film Paper	24" x 36"	\$4.55 per single sheet
	36" x 50 yd.	\$2.50 per foot

(c) For facsimile transmissions:

(1) Twenty-Five Cents (\$.25) per page for local facsimile transmissions;

(2) Forty Cents (\$.40) per page for long distance facsimile transmissions; and

(3) A cover sheet may be required in the discretion of the City and the per page fee charged above for such cover sheet.

(B.P.W.S. No. 86-6, § 1, 5-19-86; B.P.W.S. No. 91-4, § 2, 6-17-91; B.P.W.S. No. 91-5, § 2, 7-3-91; Ord. No. 95-21, § 1, 8-21-95)

Notwithstanding any provision of the Greenwood Municipal Code to the contrary, the public agencies of the City of Greenwood retain the discretion to except public records from disclosure pursuant to *I.C., 5-14-3-4(b)*. (Ord. No. 95-21, § 3, 8-21-95)

Sec. 4-51 Rates of Reimbursement Charges.

Copies of all other documents that are permitted to be copied under State Law shall be set at the rate that provides reimbursement to the City for the costs of said copying charges. (B.P.W.S. No. 86-6, § 2, 5-19-86)

Sec. 4-52 Exceptions to Charges.

(a) This Section shall not apply to a copy charge established by Greenwood Common

⁶ *I.C., 5-14-2-8*, authorizes the establishment of a copying fee schedule for copies of public records.

§ 4-50 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-59

Council Resolution No. 89-13, as amended. (*See*, GMC 4-65) (Ord. No. 95-21, § 2, 8-21-95)

(b) Nothing in this Division shall prohibit current City officials, appointees or employees from obtaining copies of documents or items including a public record without charge in the performance of their duties. (B.P.W.S. No. 86-6, § 3, 5-19-86)

Sec. 4-53 Payment Required in Advance.

The public agency which is in possession of the records shall require the payment for copying costs in advance. (B.P.W.S. No. 86-6, § 4, 5-19-86)

Sec. 4-54 through 4-59 Reserved for Future Use.

****Pages 163 through 167 Reserved for Future Use**

Division V. Dog Licensing.

Sec. 4-60 Dog Tags.⁷

(a) No person shall own or harbor any dog within the City without having a tag thereon. Such tag shall be procured by the owners by applying to the Clerk-Treasurer and exhibiting the receipt showing that the State Dog Tax for the current year has been paid, that the dog has been vaccinated as required by State law, and by paying to the City Clerk-Treasurer a fee of Two Dollars (\$2.00) for each dog, whereupon the City Clerk-Treasurer shall issue the tag. The tag shall be valid until September 1 following the date of issuance. (Ord. No. 89-23, § 1, 7-10-89)

(b) The Clerk-Treasurer shall provide his or her office with a suitable book to be known as the "dog register" in which shall be recorded the names of the person securing tags, the numbers thereof, and the date of issuance and shall also procure and furnish to all such persons a suitable metal tag with the words "dog tag" with the year and a serial number on the same. (*Code* 1968, § 9.01; *1983 Greenwood Municipal Code*, § 3-4(b))

Sec. 4-61 through 4-64 Reserved for Future Use.

Pages 169 through 172 Reserved for Future Use.

⁷ I.C., 15-5-9-1 et seq., address state regulations involving dogs.

FEES, LICENSES, PERMITS, AND FRANCHISES

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§ 4-65 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-66

Sec. 4-65. Repealed. (Ord. No. 99-54, § 1, 12-6-99)

Division VI. Official Fee Schedule.

Sec. 4-66 Official Fee Schedule.

The Common Council adopts the Official Fee Schedule which shall read as follows:

<i>Official Fee Schedule</i>	<i>Fees:</i>
-------------------------------------	---------------------

(a) Board of Zoning Appeals:

- | | |
|---|--|
| 1. Variance petitions: | |
| a. Dimensional Variance | |
| 1) single-family | \$100.00 plus \$50.00 each additional |
| 2) others | \$250.00 plus \$150.00 each additional |
| b. Use Variance | |
| 1) single-family | \$150.00 |
| 2) others | \$350.00 |
| 2. Change in previously approved variance | \$ 50.00 Single/\$100.00 Others |
| 3. Special Use Exceptions: | |
| a. Church or School | \$100.00 |
| b. Others | \$200.00 |
| 4. Administrative Appeal | \$ 50.00 |

(b) Plan Commission:

- | | |
|---|---|
| 1. Annexation petition (may include zoning) | \$300.00 plus \$5 per acre |
| 2. Zoning petitions | \$400.00 |
| 3. Subdivision plats: | |
| a. Primary Plat (whole subdivision) | \$500.00 plus \$2 per lot |
| b. Secondary Plat (including development plans) (whole subdivision or sections thereof) | \$500.00 plus \$2 per lot |
| c. Change in previously approved final plat or major change in development plan | \$100.00 (Ord. No. 99-54, § 1, 12-6-99) |

§ 4-66 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-66

<i>Official Fee Schedule - continued</i>		<i>Fees:</i>
4. Planned Unit Development:		
a. Concept Plan		\$100.00
b. Master Plan and Zoning		\$500.00
5. Site Plans for Non-Subdivided Developments:		
a. Commercial/Industrial Projects		\$350.00 plus \$5 per acre
b. Change in previously approved plans		\$ 50.00 plus \$5 per acre
c. Multi Family Site Plan		\$500.00 plus \$5 per acre
d. Mobile Home Park		\$500.00 plus \$5 per acre
6. Drainage (Land Alteration):		
a. Subdivision plats/Commercial Site Plans		No charge (part of plat or plan fee)
b. Parking lot/Driveway paving expansion (Ord. No. 01-28, § 1, 6-18-01)		\$100.00 plus \$2 per space (300 sq. ft.)
c. Excavation, land filling, or regrading of land (not part of subdivision or site plan improvements)		\$100.00 plus \$5 per acre
7. Street Cut 1* 2*		
Utilities or Government Agencies		\$ 10.00
Others		\$ 25.00
1* Due to the large volume (over 90% of all street cuts) of permits obtained annually, public or private utilities may post a \$5,000.00 bond with the City on an annual basis and be eligible for a reduced fee (\$10.00) for individual street cut permits.		
2* Other applicants shall pay the regular permit fee and post a \$1,000 bond (bond, cash, cashier check) for each permit issued. Said bond shall be for a term of twelve (12) months from the date of issuance of the permit.		
8. Residential Building Permits:		
a. Single-family dwelling		\$ 50.00 + 2¢/sq. ft. + \$125.00 = total fees

(Ord. No. 99-54, § 1, 12-6-99)

§ 4-66 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-66

<i>Official Fee Schedule - continued</i>		<i>Fees:</i>
b. Two-family dwelling		\$100.00 + 2¢/sq. ft. + \$125.00 = total fees
c. Multi-family		\$ 50.00/unit + 2¢/sq. ft. per building + \$50.00 per acre of entire project
d. Residential (1-2 family) addition		\$ 50.00 + 5¢/sq. ft.
e. Residential (1-2 family) remodeling:		
1) Structural	\$ 25.00	
2) Electrical	\$ 25.00	
3) Plumbing	\$ 25.00	
4) Mechanical	\$ 25.00	
Combination of any of the above maximum	\$ 50.00	
Only one permit shall be required for any particular remodeling project. The total fee for said permit shall be based upon how many of the four components are included in the permit application.		
f. Garages and carports		\$ 0.05¢/sq. ft. with minimum fee of \$25.00
g. Accessory Buildings		\$ 0.05¢/sq. ft. with minimum fee of \$25.00
h. Certificate of occupancy		No additional charge
i. Structures other than buildings		\$ 25.00
9. Mobile Homes:		
a. New - including pad	\$ 20.00	
b. Location only - onto existing pad	\$ 10.00	
c. Individually sited mobile homes (Special Exception in A-1 Zoning District)	\$ 50.00 + 5¢/sq. ft.	
10. Commercial/Industrial Permits:		
a. New Buildings		\$200.00 + 3¢/sq. ft. per building + \$50.00 per acre of entire project
b. Structures other than buildings:		
1) General	\$ 50.00	
2) TV, Radio, Phone, Other communication towers	\$100.00 + \$1.00 per lineal feet of height	

(Ord. No. 99-54, § 1, 12-6-99)

§ 4-66 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-66

<i>Official Fee Schedule - continued</i>		<i>Fees:</i>
c.	Commercially operated parking lot	\$ 2.00 per parking space
d.	Additions to Building:	
	1) Additions less than 10,000 sq. ft.	\$200.00 plus 3¢/sq. ft.
	2) Additions 10,000 sq. ft. or more	\$200.00 plus 3¢/sq. ft. per building + \$50.00 per acre of affected area
e.	Accessory Buildings	\$ 0.05 cents/sq. ft. with \$50.00 minimum fee
f.	Commercial Remodeling	
	1. Structural	\$ 50.00 + 3¢/sq. ft.
	2. Electrical	\$ 50.00 + 3¢/sq. ft.
	3. Plumbing	\$ 50.00 + 3¢/sq. ft.
	4. Mechanical	\$ 50.00 + 3¢/sq. ft.
	Combination of any above – maximum	\$100.00 + 3¢/sq. ft.

Only one permit shall be required for any particular remodeling project. The total fee for said permit shall be based upon how many of the four components are included in the permit application.

11. Demolition Permits:
 - a. First Building on premises \$ 25.00
 - b. Additional Buildings (excluding portable buildings) \$ 15.00
12. Moving or Changing Building Location:
 - a. Principal building \$ 50.00
 - b. Accessory building \$ 20.00
13. Swimming Pools:
 - a. Pools less than 2 ft. deep or 250 sq. ft. in area exempt
 - b. Residential pools (in-ground or above-ground) \$ 50.00
 - c. Commercial or public - less than 700 sq. ft. \$ 75.00
 - d. Commercial or public - 700 sq. ft. to 1,500 sq. ft. \$100.00
 - e. Commercial or public greater than 1,500 sq. ft. \$150.00

(Ord. No. 99-54, § 1, 12-6-99)

§ 4-66 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-66

<i>Official Fee Schedule - continued</i>		<i>Fees:</i>
14. Sign Permits:		
a. Portable signs (32 sq. ft. maximum face size)		\$ 15.00
b. Other Signs :		
1. Pole Sign		\$ 1.00/sq. ft. with \$100.00 minimum
2. Ground		\$ 1.00/sq. ft. with \$50.00 minimum
3. Wall		\$ 1.00/sq. ft. with \$25.00 minimum
4. Portable (temporary)		\$ 15.00
5. Billboard		\$ 1.00/sq. ft. with \$250.00 minimum
6. Interstate Hi-Rise		\$ 1.00/sq. ft. with \$250.00 minimum
15. Tents and Awnings Permits:		
a. Tents and awning permits have a sixty (60) day time limit but may be renewed at sixty (60) day intervals so long as there are no zoning violation citation notices;		
b. First permit issued in a given calendar year		\$ 10.00
c. Renewal permits issued in a given calendar year		\$ 5.00
(Res. No. 88-11, § 1, 8-15-88)		
16. Official Documents:		
a. Zoning Ordinance		\$ 15.00
b. Subdivision Ordinance		\$ 10.00
c. Sign Code		\$ 3.00
d. Building Code/Unsafe Building Code		\$ 3.00
e. Zoning Maps		
1) Full map – Original – Color		\$ 12.00
2) Full map – copy – black and white		\$ 3.00
3) Small area map – color – 11”X 17” or smaller (Ord. No. 01-28, § 2, 6-18-01)		\$ 3.00
f. Policies and Procedures		\$ 1.00

§ 4-66 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-69

Official Fee Schedule - continued

Fees:

- | | |
|---|--------------|
| g. Combination book including zoning ordinance, subdivision ordinance, sign code ordinance and full color map
(Ord. No. 01-28, § 2, 6-18-01) | \$ 35.00 |
| 17. Comprehensive Plan Documents: | |
| a. Summary Document (w/pop. & economics) | \$ 15.00 |
| b. Park and Recreation Plan | \$ 15.00 |
| c. Airport Plan | \$ 15.00 |
| d. Population or Economic Studies | \$ 3.00 |
| e. I-65 Corridor Traffic Study | \$ 5.00 |
| f. Other Companion Documents | 10¢ per page |
| (Res. No. 89-13, § 1, 8-21-89) | |
| 18. Vacations: | |
| Petitions to vacate | \$200.00 |
| 19. Outside Consultant Review: | |

The City of Greenwood may from time to time elect to use the services of a private consultant in the review process for primary plats, secondary plats and plans, and site development plans, as well as significant changes or amendments to any of these. In such cases the applicant shall be required to pay additional fees for the cost of review by a private consultant. The Plan Commission and Board of Public Works and Safety are hereby authorized to jointly establish both a minimum fee for such review and an hourly rate for review time beyond the minimum. The minimum fee shall be set at an amount equal to three hours review time. The hourly rate shall apply to review time beyond the first three hours and shall be computed to the nearest one-half hour.
(Ord. No. 06-24, § 10, 9-18-06)

(c) Fee Payment Policies and Procedures:

1. Time of Payment:

- A. At time of Filing - All fees shall be paid by the applicant or petitioner at the time a petition or permit application is filed with the Department of Planning and Zoning. Until all applicable fees have been paid in full, no permit shall be granted.
- B. Exceptions - fees for a building permit that requires Plan Commission approval shall not have to be paid until the Commission has actually approved the plans and authorized the staff to issue said permit. Such fee shall be paid in full at the time permit is issued.

§ 4-69 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-69

2. Fees not Refundable:

Once an application or petition has been filed and the applicable fee paid, no portion of the fee shall be refundable to the applicant or the petitioner.

3. Exemptions:

The Plan Commission may, at its discretion, waive the fee for any plans, permits, or documents when such waiver will result in a direct savings of tax funds by the applicant agency. (Res. No. 88-11, § 1, 8-15-88; Res. No. 89-13, § 1, 8-21-89)

(Ord. No. 99-54, § 1, 12-6-99)

Sec. 4-67 through 4-69 Reserved for Future Use

§ 4-70 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-72

Division VII. Massage Establishments and Masseurs.

Sec. 4-70 Definitions.

For the purpose of this Division, the following words and phrases shall have the meanings ascribed to them as follows:

(a) **EMPLOYEE.** Any and all persons, other than the masseurs or masseuses, who render any service to the permittee, who receive compensation directly from the permittee, and who have no physical contact with customers and clients.

(b) **MASSAGE.** Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice.

(c) **MASSAGE ESTABLISHMENT.** Any establishment having a fixed place of business where any person engages in or carries on, or permits to be engaged in or carried on, any massage activities.

(d) **MASSEUR OR MASSEUSE.** Any person who, for any consideration whatsoever, engages in the practice of massage.

(e) **RECOGNIZED SCHOOL.** Any school or institution of learning which has for its purpose the teaching of the theory, method, profession, or work of massage, which school requires a resident course of study not less than seventy (70) hours to be given in not more than three (3) calendar months before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning following the successful completion of such course of study or learning. (*1983 Greenwood Municipal Code*, § 7-61)

Sec. 4-71 Exception to Application of Division.

This Division shall not apply to hospitals, nursing homes, sanitarium, the YMCA or YWCA, or other establishments where eighty (80) percent of the gross receipts are derived from sources other than massage activities, or to persons holding an unrevoked certificate to practice the healing arts under state law, or to persons working under the direction of any such persons or in any such establishments. (*1983 Greenwood Municipal Code*, § 7-62)

Sec. 4-72 Hours of Operation.

A massage establishment shall not carry on, engage in, or conduct business on Sunday, and on other days shall not carry on, engage in, or conduct business before 8:00 A.M., or after 6:00 P.M. (*1983 Greenwood Municipal Code*, § 7-63)

§ 4-73 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-79

Sec. 4-73 Advertising.

No massage establishment shall place, publish, or distribute or cause to be placed, published, or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons that any service is available other than massage services, or that employees, masseurs, or masseuses are dressed in any manner contrary to this Division; nor shall any massage establishment indicate in the text of such advertising that any service is available other than massage services. *(1983 Greenwood Municipal Code, § 7-64)*

Sec. 4-74 Sanitation of Establishments Generally.

Every portion of a massage establishment, including all appliances and apparatus, shall be kept clean and operated in a sanitary condition. *(1983 Greenwood Municipal Code, § 7-65)*

Sec. 4-75 Cleaning of Toilet, Bath and Similar Facilities.

A massage establishment's wet and dry heat rooms, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation and all bathtubs shall be thoroughly cleaned after each use. *(1983 Greenwood Municipal Code, § 7-66)*

Sec. 4-76 Sheets and Towels.

All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity which shall be laundered after each use thereof and stored in approved, sanitary manner. *(1983 Greenwood Municipal Code, § 7-67)*

Sec. 4-77 Dressing Rooms.

Every massage establishment shall make provisions for a separate dressing room for each sex available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing. *(1983 Greenwood Municipal Code, § 7-68)*

Sec. 4-78 Where Service is to be Rendered.

All massage services regulated by this Division shall be carried on in one cubicle, room, booth, or area within the massage establishment, and no such service shall be carried on in any other cubicle, room, booth or area except where such cubicle, room, booth, or area has transparent doors or walls, such that all activity within the cubicle, room, booth, or area is visible from outside the same. *(1983 Greenwood Municipal Code, § 7-69)*

Sec. 4-79 Keeping of Daily Register.

Every person who engages in or conducts a massage establishment shall keep a daily register, approved as to form by the Police Department, of all patrons, with names, addresses and hours of arrival and, if applicable, the rooms or cubicles assigned. Said daily register shall at all times during business hours be subject to inspection by officials of the County Health Department and by the Police Department and shall be kept on file for one year. *(1983 Greenwood Municipal Code, § 7-70)*

§ 4-80 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-85

Sec. 4-80 Employees', Masseurs', etc., Clothing.

All employees of massage establishments shall wear clean outer garments whose use is restricted to the establishment; all such employees, masseurs, and masseuses must be modestly attired, and diaphanous, flimsy, transparent, form-fitting, or tight clothing is prohibited. All clothing must cover the employees', masseurs' or masseuses' chests at all times and hemlines of skirts, dresses, or other such attire shall be no higher than the top of the knee. *(1983 Greenwood Municipal Code, § 7-71)*

Sec. 4-81 Sanitation of Personnel Generally.

All personnel of massage establishments shall maintain themselves in a clean and sanitary condition. *(1983 Greenwood Municipal Code, § 7-72)*

Sec. 4-82 Nudity of Patrons.

The private parts of a patron of a massage establishment shall be covered by towels, cloths, or undergarments when in the presence of an employee, masseur or masseuse, and any contact by said employee, masseur or masseuse with a patron's genital area shall be unlawful. *(1983 Greenwood Municipal Code, § 7-73)*

Sec. 4-83 Inspections.

The Police Department and the County Health Department shall, from time to time and at least twice a year, make an inspection of each massage establishment for the purposes of determining that the provisions of this Division are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. *(1983 Greenwood Municipal Code, § 7-74)*

Sec. 4-84 Transfer of Permits.

No permit required by this Division shall be transferable except with the written consent of the Chief of Police and the approval of the County Health Department; provided, however, that upon the death or incapacity of the permittee a massage establishment may continue in business for a reasonable period of time to allow for an orderly transfer of the permit. *(1983 Greenwood Municipal Code, § 7-75)*

Sec. 4-85 Rules and Regulations.

The Chief of Police or the Director of the County Health Department may, after a public hearing, make and enforce reasonable rules and regulations not in conflict with this Division to carry out its intent. In the event the regulations promulgated by these officials conflict, then those promulgated by the Chief of Police shall be controlling. *(1983 Greenwood Municipal Code, § 7-76)*

§ 4-86 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-88

Sec. 4-86 Permits Required for Establishments.

It shall be unlawful for any person to engage in, conduct or carry on or to permit to be engaged in, conducted or carried on, in or upon any premises, the operation of a massage establishment without a permit issued by the Police Department after the approval of the Director of the County Health Department. *(1983 Greenwood Municipal Code, § 7-86)*

Sec. 4-87 Permit Fee.

Every applicant for a permit to maintain, operate or conduct a massage establishment shall file an application with the Chief of Police and pay a filing fee of Twenty-Five Dollars (\$25.00), which shall not be refundable. *(1983 Greenwood Municipal Code, § 7-87)*

Sec. 4-88 Application; Information Required.

(a) The application for a permit to operate a massage establishment shall set forth the exact nature of the massage to be administered, the proposed place of business and facilities therefor, and the name and address of each applicant.

(b) In addition to the foregoing, any applicant for such a permit shall furnish the following information:

- (1) Written proof that the applicant is at least eighteen (18) years of age.
- (2) Two (2) portrait photographs of him at least two (2) inches by two (2) inches.
- (3) His fingerprints.
- (4) His business, occupation or employment for the three (3) years immediately preceding the date of application.
- (5) His massage or similar business license history.
- (6) Whether such person, in previously operating in this or another city or state under license, has had such license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.
- (7) Any criminal convictions, except minor traffic violations. *(1983 Greenwood Municipal Code, § 7-88)*

§ 4-89 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-91

Sec. 4-89 Hearing; Notice Thereof.

(a) When an application is filed for a massage establishment permit, the Chief of Police shall fix a time and a place for a public hearing, which shall be held and at which the applicant may present evidence upon the question of his application.

(b) Not less than ten (10) days before the date of such hearing, the Chief of Police shall cause to be posted a notice of such hearing in a conspicuous place on the property in which or on which the proposed massage establishment is to be operated, or shall publish notice of said hearing in a newspaper having general county wide circulation at least five (5) days prior to the date of such hearing. (*1983 Greenwood Municipal Code*, § 7-89)

Sec. 4-90 Issuance of Permit for a Massage Establishment.

(a) The Chief of Police shall issue a permit for a massage establishment within fourteen (14) days following the required hearing if all requirements of this Division for a massage establishment are met and may issue such a permit unless he finds that:

(1) The operations as proposed by the applicant if permitted would not comply with all applicable ordinances including, but not limited to, the building, health, planning, housing, zoning, and fire codes.

(2) The applicant and any other person who will be directly engaged in the management and operation of a massage establishment has been convicted of a felony, or an offense involving sexual misconduct with children, or any obscenity, keeping or residing in a house of ill fame, solicitation of a lewd or unlawful act, prostitution, or pandering.

(b) The Chief of Police in his discretion may issue a permit to any person convicted of any of the crimes in subsection (2) if he finds that such conviction occurred at least ten (10) years prior to the date of the application and the applicant has had no subsequent convictions. (*1983 Greenwood Municipal Code*, § 7-90)

(c) If the Chief fails to issue the permit within the time provided, the application is deemed denied.

Sec. 4-91 Facilities Required as Prerequisite to Issuance.

(a) No permit to conduct a massage establishment shall be issued unless an inspection by the Director of the County Health Department, or his authorized representative, reveals that the establishment complies with each of the following minimum requirements:

(l) The construction of rooms used for toilets, tubs, steam baths, and showers is waterproof with approved waterproof materials.

§ 4-91 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-94

(2) Toilet facilities are provided in convenient locations, and when five (5) or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet for each sex shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. All toilets shall be designated as to the sex accommodated therein.

(3) All lavatories or wash basins are provided with both hot and cold running water and are installed in either the toilet room or a vestibule, and lavatories or wash basins are provided with soap in a dispenser and with sanitary towels.

(b) The Director of the County Health Department shall certify that the proposed massage establishment complies with all of the requirements of this section and shall give or send such certification to the Chief of Police. (*1983 Greenwood Municipal Code*, § 7-91)

Sec. 4-92 Revocation or Suspension.⁸

(a) Any permit issued for a massage establishment shall be revoked or suspended by the Chief of Police, after a public hearing before the Chief of Police, where it is found that any of the provisions of this Division are violated or where the permittee or any employee of the permittee, including a masseur or masseuse, has been convicted of any offense found in Section 4-96 and the permittee has actual or constructive knowledge of the violation or conviction, or in any case where the permittee refuses to permit any duly authorized police officer or health inspector to inspect the premises or the operations therein.

(b) No such public hearing shall be held unless the Chief of Police gives the permittee whose permit is its subject at least ten (10) days' written notice of the specific charges against him and of the date of said hearing.

(c) At the required hearing, the person whose permit is its subject shall have the right to present evidence, cross-examine those who testify against him and be represented by an attorney. (*1983 Greenwood Municipal Code*, § 7-92)

Sec. 4-93 Permit Required for Masseurs or Masseuses.

It shall be unlawful for any person, including one who holds a massage establishment permit, to engage in the practice of massage without a permit issued by the Chief of Police. (*1983 Greenwood Municipal Code*, § 7-106)

Sec. 4-94 Permit Fee for Masseurs or Masseuses.

Any person desiring the permit required by this Division shall file an application for said permit with the Chief of Police upon a form provided by said Chief and shall pay a filing fee of Five Dollars (\$5.00), which shall not be refundable. (*1983 Greenwood Municipal Code*, § 7-107)

⁸ *I.C.*, 36-4-5-5, addresses revocation or suspensions of permits.

§ 4-95 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-97

Sec. 4-95 Application for Permit; Information Required.

An application for a masseur or masseuse permit shall contain the following information:

- (a) The applicant's name and residence address.
- (b) The applicant's social security number.
- (c) The applicant's weight, height, color of hair and eyes, and fingerprints.
- (d) Written evidence that the applicant is at least eighteen (18) years of age.
- (e) The applicant's business, occupation or employment for the three (3) years immediately preceding the date of application.
- (f) Whether the applicant has ever been convicted of any crime except minor traffic violations. If he has been so convicted, a statement must be made giving the nature of the offense, place and court in which the conviction was obtained and the sentence imposed as a result of such conviction.
- (g) The name and address of any recognized schools attended, the date attended and a copy of the diploma or certificate of graduation awarded the applicant. (*1983 Greenwood Municipal Code*, § 7-108)

Sec. 4-96 Permit Issuance Criteria.

The Chief of Police may issue a masseur or masseuse permit within twenty-one (21) days following application, unless he finds that the applicant for the permit has been convicted of a felony, an offense involving sexual misconduct with children, or any obscenity, keeping or residing in a house of ill fame, solicitation of a lewd or unlawful act, prostitution, or pandering. If no action is taken within twenty-one (21) days, the permit is deemed denied. The Chief in his discretion may issue a permit to any person convicted of such crimes if he finds that such conviction occurred at least ten (10) years prior to the date of the application and the applicant has had no subsequent convictions. (*1983 Greenwood Municipal Code*, § 7-109)

Sec. 4-97 Revocation or Suspension of Permit.

(a) A masseur or masseuse permit issued shall be revoked or suspended after a public hearing before the Chief of Police where it appears that the masseur or masseuse has been convicted of any offense enumerated in Section 4-96.

(b) No such public hearing shall be held unless the Chief of Police gives the permittee whose permit is its subject at least ten (10) days' written notice of the specific charges against him and the date, time and place of said hearing.

§ 4-97 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-100

(c) At the required hearing, the person whose permit is its subject shall have the right to present evidence, cross-examine those who testify against him and be represented by an attorney. (*1983 Greenwood Municipal Code*, § 7-110)

Sec. 4-98 through 4-100 Reserved for Future Use.

****Pages 191 -193 Reserved for Future Use****

§ 4-101 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-102

Division VIII. Peddlers, Solicitors, Transient Merchants, and Street Vendors.⁹

Sec. 4-101 Definitions.¹⁰

The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) **PEDDLER.** Any person who goes from house to house, from place to place, or from street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same for sale, or making sales and delivering articles to purchasers.

(b) **SOLICITOR.** Any person who goes from house to house, from place to place, or from street to street, soliciting or taking orders for sale of goods, wares or merchandise, including magazines, books, periodicals, or personal property, for future delivery, or for services to be performed in the future. Such definition includes any person who, for himself or another, leases, uses or occupies any building, vehicle, trailer, tent, railroad car, hotel room or other place in the City for the primary purpose of exhibiting samples and taking orders for future delivery.

(c) **TRANSIENT MERCHANT.** Any person who engages in a temporary business of selling and delivering goods, wares or merchandise within the City, and who in furtherance of such purpose leases, uses or occupies any building, vehicle, trailer, tent, railroad car, hotel room or other place in the City for the exhibition and sale of such goods, wares or merchandise. (*Code* 1968, § 35.01; *1983 Greenwood Municipal Code*, § 12-1)

Sec. 4-102 License Required.

(a) No person shall engage in the business of peddler, solicitor, or transient merchant in the City without a license.

(b) An applicant for such a license shall file with the Clerk-Treasurer a sworn application in writing, which application shall give the following information:

(1) Name and physical description of applicant;

(2) Permanent home and local address of applicant; and in the case of solicitors or transient merchants, the local address from which proposed sales will be made;

⁹ *I.C.*, 36-8-2-11, *et seq.*, addresses the authority to regulate peddlers, solicitors, etc.

¹⁰ *I.C.*, 25-37-1-1 *et seq.*, address state transient merchant laws.

§ 4-102 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-104

(3) A brief description of the nature of the business and the goods to be sold;

(4) The name and address of employer, if any;

(5) The length of time for which the right to do business is desired;

(6) If employer is a corporation, the state of its incorporation, whether it is authorized to do business in Indiana and evidence that the corporation has designated a resident agent in the City upon whom legal service may be made and that corporation will be responsible for the acts of its employees in the City;

(7) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance other than a traffic violation, the nature of the offense and the penalty imposed;

(8) The last municipalities, not exceeding three (3), where applicant carried on business immediately preceding date of application, and the addresses from which such business was conducted in those municipalities.

(c) Upon receipt, each application shall be referred to the Chief of Police who shall investigate the business and moral character of the applicant. If upon investigation the applicant's character is found unsatisfactory, no license shall be issued. (*1983 Greenwood Municipal Code*, § 12-2, (a)-(c))

Sec. 4-103 License Fee.

The fee for such a license is Ten Dollars (\$10.00) per day, or Fifty Dollars (\$50.00) per week. A bona fide resident of the City may obtain a license for six (6) months for Seventy-Five Dollars (\$75.00). (*Code* 1968, §§ 35.02(a), 35.03, 35.04, 35.06; *1983 Greenwood Municipal Code*, § 12-2(d))

Non-residents may obtain a license for six (6) months for Seventy-Five Dollars (\$75.00) plus costs of investigation up to Twenty-Five dollars (\$25.00).

Sec. 4-104 Bond Required.

An applicant for a license under this Division shall file with the City a surety bond in the amount of Five Hundred Dollars (\$500.00), conditioned that the applicant shall comply fully with all ordinances of the City and statutes of Indiana regulating peddlers, solicitors and transient merchants, and guaranteeing to any resident of the City that all money paid as a down payment will be accounted for and applied according to the representations of the licensee and further guaranteeing to any resident of the City doing business with the licensee that the property purchased will be delivered according to the representations of the licensee. Action on such bond may be brought by the person aggrieved and for whose benefit, among others, the bond is given. (*Code* 1968, § 35.05; *1983 Greenwood Municipal Code*, § 12-3)

§ 4-105 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-109

Sec. 4-105 Exemption.

(a) This Division shall not apply:

- (1) To the selling of personal property at wholesale to dealers in such articles;
- (2) To newsboys;
- (3) To merchants or their employees in delivering goods in the regular course of business;
- (4) To vendors of milk, bakery products, groceries or ice who distribute their products to regular customers on established routes; or
- (5) To farmers or truck gardeners who vend, sell or dispose of, or offer to sell, vend, or dispose of the products of the farms or gardens occupied and cultivated by them.

(b) This Division does not prohibit any sale required by statute or by order of any court, or prohibit any auction sales conducted pursuant to law. (*Code* 1968, § 35.02(b); *1983 Greenwood Municipal Code*, § 12-4)

Sec. 4-106 Street Vendors.

No person shall sell or offer to sell or exhibit for sale any goods or merchandise from any stationary stand or vehicle located on any street or sidewalk within the City without a license therefor. The license fee for such a license is Five Dollars (\$5.00) per day, Twenty Dollars (\$20.00) per week, Fifty Dollars (\$50.00) for six (6) months, or Eighty Dollars (\$80.00) per year. (*Code* 1968, § 32.03; *1983 Greenwood Municipal Code*, § 7-1)

Sec. 4-107 through 4-109 Reserved for Future Use.

****Pages 197 - 199 Reserved for Future Use****

§ 4-110 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-113

Division IX. Commercial Trash Collection Services.¹¹

Sec. 4-110 License Required of Trash Collectors.

No person shall operate a trash collection service on a regularly scheduled commercial basis within the City without a license approved by the Board of Public Works and Safety. The license number shall be prominently displayed on all vehicles subject to said license. The Board of Public Works and Safety shall approve the issuance of a license if it finds that the licensee will comply with all applicable laws, ordinances, rules and regulations in the operation of the business to be licensed. (1983 Greenwood Municipal Code, § 6-7(a))

Sec. 4-111 License Fee.

Application for the license shall be made to the Board of Public Works and Safety and, if approved, the license shall be issued by the Clerk-Treasurer. The license fee for such license shall be Twenty-Five Dollars (\$25.00) per year. (1983 Greenwood Municipal Code, § 6-7(b))

Sec. 4-112 Trash Collection Regulations.

Licensees shall establish their own routes and dates for pick-up except as follows:

- (a) There are to be no scheduled residential pick-ups on Sundays.
- (b) Commercial pick-ups may be made as deemed necessary by the licensee.
- (c) If, due to uncontrollable circumstances, a pick-up cannot be made on schedule, it must be made within the twenty-four-hour period immediately following the scheduled date of pick-up. (1983 Greenwood Municipal Code, § 6-7(c))

Sec. 4-113 Liability Insurance Required.

Prior to the issuance of a license the applicant must furnish evidence that he has in effect, or will have in effect at the time of issuance of the license, a liability insurance policy in an amount determined by the Board of Public Works and Safety. In determining the amount of insurance, the Board shall consider the potential liabilities to which the licensee's operation will be exposed. (1983 Greenwood Municipal Code, § 6-7(d))

¹¹ I.C., 36-8-2-10, sets forth the authority to regulate the operation of businesses.

§ 4-114 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-119

Sec. 4-114 Penalties.

Any person violating the provisions of Section 4-110 shall be ordered by the Board of Public Works and Safety to appear before it and show cause why his license should not be revoked. Any person found to be violating the other provisions of this section shall be guilty of an offense and shall be fined an amount of One Hundred Dollars (\$100.00) for each violation. For each day on which any such violation shall continue, a separate offense shall be deemed to be committed. (*Code* 1968, § 8.07; *1983 Greenwood Municipal Code*, § 6-7(e))

Sec. 4-115 through 4-119 Reserved for Future Use.

****Pages 202 - 206 Reserved for Future Use****

§ 4-120 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-125

Division X. Vehicle Inspection Fees.

Sec. 4-120 Vehicle Identification Number Inspection Fees.

The Greenwood Police Department is authorized and directed to charge and receive a fee of Three Dollars (\$3.00) for each motor vehicle for which a vehicle identification number inspection and verification is performed at the request of a person. (Ord. No. 88-30, § 1, 6-20-88)

Sec. 4-121 Receipt for Fees Paid.

A receipt as prescribed by the State Board of Accounts (Form 352) for such fee shall be issued by the police officer performing such service in duplicate with a copy being presented to the person requesting the service and a copy to be retained by the Greenwood Police Department. (Ord. No. 88-30, § 2, 6-20-88)

Sec. 4-122 Fees to be Deposited in the Special Vehicle Inspection Fund.

All fees collected pursuant to this Division shall be deposited in the Special Vehicle Inspection Fund addressed in Section 2-98 of this *Code*.

Sec. 4-123 through 4-125 Reserved for Future Use.

****Pages 208 - 210 Reserved for Future Use****

§ 4-126 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-129

Division XI. Vehicles for Hire - Taxicabs.¹²

Sec. 4-126 Definition of Taxicab.

As used in this Division the term TAXICAB shall mean any motor-driven vehicle designated or constructed to accommodate or transport passengers for hire, not more than six (6) in number, exclusive of the driver, and not operating on a fixed schedule or route, the destination of which is designated by the passenger or passengers at the time of such transportation, but not including ambulances or funeral cars. (*Code* 1968, § 33.01; *1983 Greenwood Municipal Code*, § 16-16)

Sec. 4-127 Amendments Authorized.

Any franchise issued under this Division shall be issued subject to the right reserved in the Common Council to amend, supplement or repeal this Division or any part thereof. (*Code* 1968, § 33.09; *1983 Greenwood Municipal Code*, § 16-17)

Sec. 4-128 Rates to be set by the Common Council.

(a) The rates to be charged by taxicabs operating in the City shall be determined by the Common Council, upon the recommendation of the Board of Public Works and Safety, which, after ten (10) days' notice by publication in a newspaper printed and published in the City, shall hold a public hearing, and determine the rates to be charged by taxicabs operating in the City. The Board of Public Works and Safety shall, after notice and hearing, recommend to the Common Council the rates to be charged. The Common Council shall approve or disapprove the schedule of rates, and if adopted by the Common Council, said schedule of rates shall be published once in a newspaper of general circulation printed and published in the City, and shall be placed on file with the Clerk-Treasurer.

(b) Thereafter the operator of any taxicab for which a permit is issued to operate in the City, shall keep the rates posted in a conspicuous place in the taxicab. The operator or driver of a taxicab shall not charge any fare in excess of the schedule on file in the office of the Clerk-Treasurer. (*Code* 1968, § 33.07; *1983 Greenwood Municipal Code*, § 16-18)

Sec. 4-129 Lost Articles.

It shall be the duty of every person operating a taxicab promptly to notify the Police Department of any article found in any taxicab operated by him, and a description thereof, where it is kept, and where it may be found, so that it may be returned to the owner. (*Code* 1968, § 33.08; *1983 Greenwood Municipal Code*, § 16-19)

¹² *I.C.*, 36-9-2-4, authorizes cities to regulate the services offered by persons who hold out for public hire the use of vehicles.

§ 4-130 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-133

Sec. 4-130 Franchise Required.

No person shall operate any taxicab in the City without a franchise from the City. (*Code* 1968, § 33.02(a); *1983 Greenwood Municipal Code*, § 16-31)

Sec. 4-131 Application, Public Hearing, and Issuance.

(a) An applicant for a franchise to operate a taxicab in the City shall make written and signed application to the Clerk-Treasurer, which application shall include the following information:

(1) Name of the person desiring to operate a taxicab business, and the address and telephone number of the place of business within the City of such taxi service. The term "operator" shall mean the owner of the cab and not necessarily the specific driver.

(2) The make, model, serial number, state license number, engine number, capacity and statement of the mechanical condition of the taxicab to be used.

(3) A financial statement of the person desiring to operate such taxicab service.

(b) A separate application shall be filed for each taxicab.

(c) The Clerk-Treasurer shall present the application to the next regular meeting of the Common Council. The Common Council shall set and hold a public hearing to determine the economic need for such franchise. If such is demonstrated, the Common Council shall order the Clerk-Treasurer to issue the franchise. (*Code* 1968, §§ 33.02(c), 33.03(a)-(c); *1983 Greenwood Municipal Code*, § 16-32)

Sec. 4-132 Persons Eligible.

An applicant for a taxicab franchise shall have been a bona fide resident of Johnson County, Indiana, for a period of not less than three (3) months immediately preceding the date of application, or at the time of making application (Ord. No. 88-47, §1, 6-20-88)

Sec. 4-133 Insurance Required.

(a) No person shall operate any taxicab in the City, nor shall any franchise be granted, unless the applicant deposits with the Clerk-Treasurer a policy of liability insurance for each taxicab, said policy to be issued by a company authorized to do business in the State, indemnifying the applicant in the sum of at least Twenty-Five Thousand Dollars (\$25,000.00) for injury to one person and Fifty Thousand Dollars (\$50,000.00) for injury to more than one person, and Ten Thousand Dollars (\$10,000.00) for property damages in any one accident, through the operation of any taxicab of the applicant. (Ord. No. 87-11, §1, 6-1-87)

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(b) In lieu thereof, there may be filed the bond of a surety company indemnifying persons who may be damaged by the operation of such taxicab in the same amounts as hereinabove stated, conditioned that action may be brought thereon by any person damaged in the amount named therein. The insurance and bond shall be approved by the Board of Public Works and Safety. The policy of insurance or bond shall contain a clause obligating the company issuing the same to give written notice ten (10) days before the termination thereof to the Clerk-Treasurer. The franchise for the operation of the taxicab thereby insured shall expire upon the lapse of or termination of the policy or bond unless immediately renewed or replaced by a like policy or bond. (*Code 1968, § 33.04; 1983 Greenwood Municipal Code, § 16-34*)

Sec. 4-134 Fee; Renewal; Transfer.

Each applicant for a taxicab franchise shall deposit with the Clerk-Treasurer at the time of making application the sum of One Hundred Dollars (\$100.00) for the first taxicab; Fifty Dollars (\$50.00) each for the next two (2); Twenty-Five Dollars (\$25.00) each for the next two (2); and Ten Dollars (\$10.00) for each taxicab in excess of five (5). If the franchise is granted said sum so deposited shall be retained as the annual fee, but if the franchise is denied, the sums so deposited shall be returned to the applicant. The franchise shall be renewed each year and a like annual fee shall be paid. Franchises shall become effective as of the first of each month that they are granted. No franchise to operate a taxicab shall be assigned or transferred, but a franchise may be surrendered to the Clerk-Treasurer for cancellation and a refund shall be made for the unexpired portion of the franchise. (*Code 1968, §§ 33.05, 33.09; 1983 Greenwood Municipal Code, § 16-35*)

Sec. 4-135 Inspection of Vehicle.

No franchise to operate a taxicab shall be issued by the Clerk-Treasurer or ordered issued by the Common Council until there is filed with the application for permit a certificate executed by the police department showing that the authority signing the certificate has inspected the vehicle for which franchise is applied for, as to tires, brakes, steering apparatus, alignment, lights and general mechanical condition and found the vehicle in such condition that it may safely be operated in the City. (*Code 1968, § 33.06; 1983 Greenwood Municipal Code, § 16-36*)

Sec. 4-136 Franchise Certificate to be Displayed.

A franchise certificate shall contain the name of the person owning and operating such taxicab; the address and telephone number of the place of business of such person; and its make, model, engine and serial numbers, state license number, and capacity. The franchise certificate shall be affixed to an accessible place near the driver's seat of such taxicab, and shall be available at all times for inspection. (*Code 1968, § 33.03(d), (e); 1983 Greenwood Municipal Code, § 16-37*)

Sec. 4-137 Revocation.

(a) Any franchise issued under the terms of this Division may be revoked by the Common Council after notice and hearing:

(l) If the holder of such franchise or the driver of the taxicab covered by such franchise shall have been convicted of a violation of this Division, or of the laws of the state regulating or controlling traffic; or

§ 4-137 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-144

(2) If upon report of the Chief of Police, it appears that the taxicab is not properly constructed or is not in good repair; or is not a safe conveyance for the transportation of passengers; or

(3) Upon it being shown that any representation made by the holder of a franchise is false and that the person making such representation knew it to be false; or

(4) When it appears to the satisfaction of the Mayor or her or his designee that the owner of the franchise is engaged in any illegal or immoral business in connection with the operation of the taxicab service.

(b) In the event of revocation, unearned pro rata share of the fees paid for any year shall be refunded to the applicant.

(c) Notice of such hearing may be mailed to the place of business of the person owning and operating the taxicab five (5) days in advance of the date of the hearing. (*Code* 1968, §§ 33.09, 33.10; *1983 Greenwood Municipal Code*, § 16-38)

Sec. 4-138 Taxicab Rates.

The Greenwood Common Council hereby approves the Schedule of Rates as recommended to it by the Greenwood Board of Public Works and Safety as follows:

(a) Taxi cab passenger transportation, pick-up or delivery shall be metered at a rate of Two Dollars (\$2.00) for each mile traveled (\$0.20 for each one-tenth of a mile), with an additional One Dollar and Seventy-Five Cents (\$1.75) pick-up charge, or a minimum charge of \$4.00, whichever is greater.

(b) Each additional passenger over the age of six (6) years shall be an additional Fifty (\$0.50) charge.

(c) Two (2) copies of the Schedule of Rates and Charges, as amended, shall be kept on file in the office of the Clerk-Treasurer of the City of Greenwood for public inspection.

(Ord. No. 05-27, § 1, 12-5-05)

Sec. 4-139 through 4-144 Reserved for Future Use.

****Pages 215 - 220 Reserved for Future Use****

§ 4-145 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-147

Division XII. Regulations Governing Peddling of Ice Cream From Motor Vehicles on City Streets.

Sec. 4-145 Compliance Required, License.

No person, partnership, corporation or business entity of any kind shall sell or offer for sale any ice cream, popsicles, ice sherbets or other frozen dessert products from a motor vehicle without having in effect a valid current license for the business as provided for in Sec. 4-2 through 4-14 of this *Code*. In addition, no person, partnership, corporation or business entity of any kind shall sell or offer for sale any ice cream, popsicles, ice sherbets or other frozen dessert products of any kind from a motor vehicle without also complying with the terms of this Article. Should any provision of this chapter conflict or be inconsistent with the provisions of this Division, then the provisions of this division shall apply. Said license may be denied for failure to provide the required information, failure to comply with any applicable laws, or evidence of bad character or reputation. (Ord. No. 92-49, § 1 (7-111), 9-21-92)

Sec. 4-146 Definitions.

As used in this Article, the following terms shall have the following meaning, unless the context clearly indicates that a different meaning is intended:

(a) **ICE CREAM TRUCK** means every motor vehicle in which ice cream, popsicles, ice sherbets or other frozen dessert products of any kind are carried for purposes of retail sale on the City street right-of-way;

(b) **VEND or VENDING** means offering ice cream, popsicles, ice sherbets or other frozen dessert products for sale from a motor vehicle on the City street right-of-way;

(c) As used in this Division, **OPERATOR** shall include every person, firm or corporation who owns, leases, contracts or in any other fashion permits a person to operate upon the City street right-of-way any ice cream truck for the purpose of vending as defined in subsections (a) and (b) herein;

(d) **PERSON** shall include every driver of an ice cream truck and an operator of an ice cream truck, as defined within these definitions;

(e) **MOTOR VEHICLE** shall mean a vehicle that is self-propelled. (Ord. No. 92-49, § 1 (7-112), 9-21-92)

Sec. 4-147 Duty of Motor Vehicle.

(a) The driver of a motor vehicle meeting or overtaking from either direction an ice cream truck stopped on the street shall stop no less than twenty-five (25) feet from the front or rear of said truck when the flashing lights and stop signal arm described in Section 4-149 are in use. After stopping, a driver may proceed past such truck at a reasonable and prudent speed, not exceeding fifteen (15) miles per hour, and shall yield the right-of-way to any pedestrian who crosses the roadway to or from the ice cream truck.

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(b) The driver of a motor vehicle on a street with separate roadways separated by a divider of some nature need not stop upon meeting an ice cream truck on the parallel roadway. (Ord. No. 92-49, § 1 (7-113), 9-21-92)

Sec. 4-148 Insurance.

(a) No license shall be issued to any operator or driver selling from an ice cream truck unless a certificate is furnished to the City showing that the operator or driver is carrying the following minimum amounts of insurance: public liability insurance in an amount of not less than Three Hundred Thousand Dollars (\$300,000) for injuries, including those resulting in death, resulting from any one occurrence and on account of any one accident; and property damage insurance in an amount of not less than Twenty-Five Thousand Dollars (\$25,000) for damages on account of any one accident or occurrence.

(b) Certificates shall contain an agreement signed by the insurance company that at least fifteen (15) days prior to modification, cancellation or termination of the subject policy, written notice shall be sent to the Greenwood Clerk-Treasurer by said insurance company. (Ord. No. 92-49, § 1 (7-114), 9-21-92)

Sec. 4-149 Unlawful to Stop for Purpose of Selling Without Proper Equipment in Operation.

It shall be unlawful for the driver or operator of any ice cream truck to stop said vehicle for the purpose of selling or offering for sale at said vehicle any ice cream, popsicles, ice sherbets, or other frozen dessert products without having the following equipment mounted on the said vehicle and in operation during the period of selling said products:

(a) A metal, horizontally-extendible sign at least twenty (20) inches in length and at least ten (10) inches in width imprinted with the words **"STOP"** in six (6) inch, black, block letters on a yellow background and **"PROCEED WITH CAUTION"** in two (2) inch, black, block letters on a yellow background, such arm to be lighted at the street end of said arm with two (2) simultaneously flashing amber lights to the front and red lights to the rear, two (2) inches in diameter, clearly visible from both front and rear at a distance of at least five hundred (500) feet, the bottom of said sign to be at a height of five (5) feet above the level of the street or way.

(b) Two (2) simultaneously flashing amber lights, not less than four (4) inches in diameter, spaced as far apart as practicable at the same level on the front end of the ice cream truck, when legally parked, not less than four (4) feet from the surface of the street or way, and clearly visible from not less than five hundred (500) feet from the front of said ice cream truck.

(c) Two (2) simultaneously flashing red lights, not less than four (4) inches in diameter, placed as far apart as practicable on the rear end of the ice cream truck, at the same level or not less than four (4) feet from the surface of the street or way, and clearly visible from not less than five hundred (500) feet from the rear of said ice cream truck.

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(d) A convex mirror mounted on the front so the driver in his normal seating position can see the area in front of the ice cream truck obscured by the hood. (Ord. No. 92-49, § 1 (7-115), 9-21-92)

Sec. 4-150 Vending From Other Than Curb Side Prohibited.

It shall be unlawful to sell or offer for sale any ice cream, popsicles, ice sherbets or other frozen dessert products from an ice cream truck unless it is legally parked, or to sell or offer for sale from other than the curb side of a legally parked ice cream truck. (Ord. No. 92-49, § 1 (7-116), 9-21-92)

Sec. 4-151 Inspection.

Every ice cream truck shall be inspected by the Police Department once each year prior to its use in this City for the purpose of retail sales of frozen dessert products. The Police Department shall inspect each ice cream truck to determine whether it complies with this Ordinance and other state and local laws. The Clerk-Treasurer shall receive notification that each ice cream truck for which a license to operate is to be issued has passed such inspection prior to the approval of said license. (Ord. No. 92-49, § 1 (7-117), 9-21-92)

Sec. 4-152 Restrictions.

(a) A person as defined above shall vend only when the ice cream truck is lawfully stopped.

(b) A person as defined above shall not vend to a person standing in the roadway.

(c) A person as defined above shall not stop on the left side of a one-way street to vend.

(d) The operator of any ice cream truck which traverses the streets of the City for the purpose of vending products as defined in Section 4-146(b) shall submit to the Clerk-Treasurer of the City at the time of the license application a detailed listing of the routes to be traveled each day by its ice cream trucks and a listing of which ice cream trucks may be used in the City.

(e) Each driver of an ice cream truck shall have a valid current operator's license. (Ord. No. 92-49, §1 (7-118), 9-21-92)

Sec. 4-153 Backing of Ice Cream Trucks Restricted.

The driver of an ice cream truck shall not back the same to make or attempt a sale. (Ord. No. 92-49, §1 (7-119), 9-21-92)

§ 4-154 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-157

Sec. 4-154 Stopping for Purposes of Vending in Certain Places and at Certain Times Prohibited.

(a) It shall be unlawful to engage in vending from an ice cream truck between 10:00 p.m. and 6:00 a.m.

(b) It shall be unlawful for the operator of an ice cream truck to stop said vehicle for the purpose of vending upon the following public roadways in the City: South County Line Road, Fry Road, Main Street, Smith Valley Road (including the By-pass), Emerson Avenue, Meridian Street, Madison Avenue, U.S. 31 South, Howard Road, Averitt Road and State Road 135.

(c) It shall be unlawful for the driver or operator of any ice cream truck to stop said vehicle for the purpose of vending or to use any loud speaker, bell or other device giving an audible signal to advertise ice cream, popsicles, ice sherbets or frozen desserts within a distance of one thousand (1,000) feet of any real estate which is then used as part of the school grounds of any public or private grade, middle or junior high school between the hours of 7:00 a.m. and 4:00 p.m. on days when said schools are in session. (Ord. No. 92-49, §1 (7-120), 9-21-92)

Sec. 4-155 Exhibition of License and Fee.

The license issued to an operator and its driver of an ice cream truck shall be posted conspicuously in said vehicle for public inspection. Where an operator has more than one ice cream truck, each driver of each such ice cream truck shall make application for a license. The license fee for one ice cream truck and one driver shall be One Hundred Dollars (\$100.00) for a six (6) month period. The license fee for each additional driver shall be an additional Twenty-Five Dollars (\$25.00) and the license fee for each additional ice cream truck shall be an additional Fifty Dollars (\$50.00). (Ord. No. 92-49, §1 (7-121), 9-21-92)

Sec. 4-156 Penalty.

Any person, firm or corporation violating any provision of this Article shall be fined not less than Five Dollars (\$5.00) nor more than Two Thousand Five Hundred Dollars (\$2,500.00) for each offense and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. No. 92-49, §1 (7-122), 9-21-92)

Sec. 4-157 Reserved for Future Use.

§ 4-158 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-159.1

Division XIII. Miscellaneous Provisions.

Sec. 4-158 Sound Amplifiers. REPEALED (ORDINANCE NO. 04-31)
(Ord. 04-31, § 4, 8-2-04)

Division XIV. Adult Entertainment Businesses

Sec. 4-159.1 Definitions.

As used in this Article, the following words, phrases and terms shall have the following meaning, unless the context clearly indicates that a different meaning is intended:

ADULT BOOKSTORE. An establishment having as a substantial amount of its stock in trade or its dollar volume in trade, books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

ADULT CABARET. A nightclub, bar, theater, restaurant or similar establishment which features live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas or which regularly feature films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons.

ADULT DRIVE-IN THEATER. A lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions, and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats in which a substantial amount of the total presentation time is devoted to the showing of materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

ADULT ENTERTAINMENT BUSINESS. An adult bookstore, adult motion picture theater, adult mini motion picture theater, adult motion picture arcade, adult cabaret, adult drive-in theater, adult live entertainment arcade or other non-specified businesses which, as a substantial part of their business activities, sell or provide depictions of or provide activities which are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas.

ADULT LIVE ENTERTAINMENT ARCADE. Any building or structure which contains or is used for commercial entertainment where the patrons directly or indirectly are charged a fee to view from an enclosed or screened area or booth, a series of live dance routines, strip performances or other

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gyrational choreography, which performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas.

ADULT MINI MOTION PICTURE THEATER. An enclosed building with a capacity of more than five (5) but less than fifty (50) persons, used for presenting films, motions pictures, video cassettes, slides or similar photographic reproductions in which a substantial part or portion of the total presentation time is devoted to the showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT MOTION PICTURE ARCADE. Any place to which the public is permitted or invited, wherein coin- or slug-operated or electronically-, electrically- or mechanically-controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

ADULT MOTION PICTURE THEATER. An enclosed building with a capacity of fifty (50) or more persons used for presenting films, motion pictures, video cassettes, slides or similar photographic reproductions in which a substantial portion of the total presentation time is devoted to showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

SPECIFIED ANATOMICAL AREAS shall mean any of the following:

- (a) less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the aureolae; or
- (b) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES shall mean any of the following:

- (a) human genitals in a state of sexual stimulation or arousal;
- (b) acts of human masturbation, sexual intercourse or sodomy;
- (c) fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;
- (d) flagellation or torture in the context of a sexual relationship;
- (e) masochism, erotic or sexually oriented torture, beating or the infliction of pain;
- (f) erotic touching, fondling or other such contact with an animal by a human being; or
- (g) human excretion, urination, menstruation, vaginal or anal irrigation as part of or in connection with any of the activities set forth in "a" through "f" above.

SUBSTANTIAL AMOUNT or **SUBSTANTIAL PORTION** shall mean thirty percent (30%) or more of the inventory, receipts or projection or performance time is devoted to or derived from the activities regulated herein.

§ 4-159.2 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-159.3

Sec. 4-159.2 License Required.

It shall be unlawful for any person to engage in, conduct, or carry on, or to permit to be engaged in, conducted, or carried on, in or upon any premises in the City of Greenwood, the operation of an adult entertainment business as herein defined, without first having obtained a separate license for such adult entertainment business from the Greenwood Chief of Police.

Every applicant for a license to maintain, operate, or conduct an adult entertainment business shall file an application in duplicate under oath with the Greenwood Chief of Police upon a form provided by the City and pay a filing fee of Five Hundred Dollars (\$500.00) to the Greenwood Clerk-Treasurer, who shall issue a receipt which shall be attached to the application filed with the Greenwood Chief of Police.

The Clerk-Treasurer shall attach a copy of this Ordinance to each permit issued, so that this Ordinance is incorporated by reference therein.

If a permit is not issued, the Clerk-Treasurer may refund that portion of the filing fee not used to reimburse the City for background investigation costs, but in no event will more than Four Hundred Dollars (\$400.00) be refunded.

Sec. 4-159.3 Application; Information Required.

(a) The application for a license to operate an adult entertainment business shall set forth the exact nature of the entertainment to be offered, the proposed place of business and facilities therefor, and the name and address of each applicant.

(b) The application shall be filed by the individual or individuals who will operate the adult entertainment business. If the entity seeking the license is not an individual, the following information must be provided for each officer or director of the entity, as well as the individual employed by such entity as manager or a similar position.

(c) In addition to the foregoing, any applicant for such a license shall furnish the following information:

- (1) Written proof that the applicant is at least eighteen (18) years of age;
- (2) Two (2) portrait photographs of the applicant at least two (2) inches by two (2) inches;
- (3) Fingerprints;
- (4) Business, occupation, or employment for the three (3) years immediately preceding the date of application;
- (5) A copy of the Indiana liquor license and a copy of the liquor license application, if any;
- (6) Previous adult entertainment business or liquor establishment business history;
- (7) Any criminal convictions, except minor traffic violations; and
- (8) A copy of the birth certificate for each individual who will be performing as an entertainer in the adult cabaret or adult live entertainment arcade, within five (5) days of the individual's commencement of work.

§ 4-159.4 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-159.8

Sec. 4-159.4 License Displayed.

The license shall be displayed in a prominent location at the establishment during business hours and shall be subject to examination or inspection by the general public and any other person at all times.

Sec. 4-159.5 Advertising.

No adult entertainment business shall be conducted in any manner that permits, from the outside of the establishment, the observation of any activities or materials depicting, describing or relating to topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers or form of entertainment.

No adult entertainment business shall advertise said business on the outside of such premise by means of materials which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

No outside loud speakers may be utilized, nor may the music or entertainment be conducted at sound levels such that the content of the lyrics or commentary is discernible outside or beyond the premises.

Sec. 4-159.6 Limitation on Location.

No adult entertainment business lot shall be located closer than one thousand feet (1,000') of another such adult entertainment business lot, or closer than one thousand feet (1,000') to any existing church lot, school lot, day care facility lot, public park, or residential lot within the City of Greenwood, Indiana.

Sec. 4-159.7 Additional Restrictions on Certain Activities

(a) If an adult arcade or adult motion picture arcade provides booths or enclosed areas for viewing the entertainment, the booth or enclosed area must be of transparent glass or plastic, or have a glass or plastic door that forms one entire side of the booth or enclosure, that allows continuous unobstructed monitoring of all areas of the booth or enclosure;

(b) Any adult entertainment business which provides for live entertainment shall prohibit the touching of any specified anatomical areas of such entertainers by the patrons of the establishment. This shall be accomplished by, among other things, physical barriers, the size of the stage, or whatever additional measures are necessary to ensure the separation of entertainers from patrons.

Sec. 4-159.8 Revocation or Suspension of Adult Entertainment Business License.

Any adult entertainment business license may be revoked or suspended by the Greenwood Chief of Police if the Chief finds that:

(a) the licensee has violated any of the provisions of this Ordinance regulating adult entertainment businesses;

(b) the licensee violates, or has violated within the last ten (10) years any state statute pertaining to obscenity, public indecency, sex crimes, as defined in Sec. 4-159.10 below, or allowing minors to perform as employees, or the licensee knowingly or under circumstances where the licensee should have known of the offending conduct, employs individuals who violate or have violated any such state statute;

(c) the licensee has knowingly furnished false or misleading information, or withheld relevant information on any application for any license or permit required by this ordinance, or knowingly caused or suffered another to furnish or withhold such information on his or her behalf.

§ 4-159.9 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-159.12

(d) the licensee knowingly or under circumstances where the licensee should have known of the offending conduct, permitted any violation of applicable state or municipal law to occur on the licensed premises.

The notice of revocation will be sent by certified mail to the licensee at the address on the permit at least ten (10) days in advance of the revocation date.

Sec. 4-159.9 Appeal; Hearing.

a) When an application for an adult entertainment business permit is denied, or a permit is revoked, the applicant or licensee may within fourteen (14) days of notice thereof, request a hearing before the Greenwood Board of Public Works and Safety, by written application to the Mayor's office at Two North Madison Avenue, Greenwood, Indiana 46142;

b) A hearing shall be scheduled for the next public meeting of the Board of Public Works and Safety. The applicant or licensee may present evidence and argument and cross-examine witnesses and may be represented by counsel.

Sec. 4-159.10 Issuance of License for an Adult Entertainment Business.

(a) The Chief of Police shall issue a permit for an adult entertainment business within thirty (30) days following receipt of application if all requirements of this Division for an adult entertainment business are met, and may issue such a license unless he finds that:

(1) The operations as proposed by the applicant if permitted would not comply with all applicable ordinances including, but not limited to, the building, health, planning, housing, zoning, and fire codes;

(2) The applicant and any other person who will be directly engaged in the management and operation of an adult entertainment business has been convicted of a felony, or an offense involving sexual misconduct with children, or any obscenity, keeping or residing in a house of ill fame, solicitation of a lewd or unlawful act, prostitution, or pandering or other sex crimes as defined by IC 35-42-4-1 et seq., or comparable statutes in other states;

(b) If the Chief of Police fails to issue the permit within the time provided, the application is deemed denied.

(c) If the Chief of Police denies issuance of a license for an adult entertainment business, the applicant may appeal the denial as described above.

Sec. 4-159.11 Existing Adult Entertainment Businesses Shall Comply.

Existing adult entertainment businesses shall have ninety (90) days from passage and publication of this ordinance to comply with the requirements of this Ordinance.

Sec. 4-159.12 Penalties.

Violations of this Ordinance shall be punishable according to the general penalty provisions of the Greenwood Municipal Code, in addition to any other remedies which the City may have, and the City Attorney is authorized to prosecute any such violations, or seek mandatory injunctive relief to prohibit or discontinue such violations, in her discretion.

(Ord. No. 94-12, § 1, 5-16-94)

ARTICLE 3. CHARITABLE SOLICITATIONS.

Sec. 4-160 Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(a) **EXEMPT ORGANIZATION.** Any religious or charitable organization which has tax exempt status from both federal and state government.

(b) **SOLICITATION.** The collecting of money for an individual's tax exempt organization by a member of such tax exempt organization. (*1983 Greenwood Municipal Code*, § 12-16)

Sec. 4-161 Effect and Scope.

The adoption of this Article by the City shall in no way constitute an endorsement or approval of exempt organizations which wish to solicit on public property within the City. This Article is adopted only to protect the health and welfare of the citizens of the City and shall be equally applied to all tax exempt organizations. This Article shall only be applicable to tax exempt organizations which are soliciting on public property or soliciting on private property in a door-to-door method. (*Code* 1968, § 36.05; *1983 Greenwood Municipal Code*, § 12-17)

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Sec. 4-162 Rules and Regulations for Solicitation on Public Property.

(a) The organization desiring to solicit on public property with the City shall provide the Board of Public Works and Safety with a list of those people who will be soliciting on behalf of the organization along with the addresses of those individuals prior to commencing their solicitation. This list will be delivered to the Clerk-Treasurer and kept in his or her office.

(b) All individuals soliciting on behalf of an exempt organization shall wear an identification tag on their outer garments identifying their organization and their name. This identification tag will include any parent organization of the organization which they represent if there is such parent organization.

(c) All individuals soliciting for exempt organizations shall limit their solicitation to sidewalks and shall not enter streets or intersections or in any way interfere with vehicular or pedestrian traffic.

(d) All individuals soliciting for exempt organizations shall not solicit on school property within the City unless they have received written permission from the Greenwood School Board.

(e) All individuals soliciting on behalf of exempt organizations shall not touch or harass members of the public in attempting to solicit. (*Code* 1968, § 36.02; *1983 Greenwood Municipal Code*, § 12-18)

Sec. 4-163 Private Property.

This Article shall in no way authorize tax exempt organizations to enter upon private property within the City without the permission of the property owner, and the requirements of Section 4-162 of this *Code* shall be followed by said tax exempt organizations when they are soliciting on private property. (*Code* 1968, § 36.03; *1983 Greenwood Municipal Code*, § 12-19)

Sec. 4-164 through 4-165 Reserved for Future Use.

Sec. 4-166 Handbills.

(a) The definitions in this section apply throughout this Article.

ELEMENTS means any force, whether created by nature or created by man, which with reasonable foreseeability could carry litter from one place to another. "Elements" shall include, but not be limited to, air current, rain, water current and animals.

HANDBILL means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed matter of literature which is not delivered by United States mail, including but not limited to material that:

- (1) advertises for sale any merchandise, product, commodity, or thing; or
- (2) directs attention to any business, mercantile, commercial establishment, or other activity, for the purpose of directly or indirectly promoting the interest of that activity by sales or by other mean; or
- (3) directs attention to or advertises any meeting, theatrical performance, exhibition, or event

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of any kind for which an admission fee is charged for the purpose of private gain or profit; or

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(4) while containing reading or pictorial matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes, or for the private benefit of any person engaged as an advertiser or distributor.

PRIVATE PREMISES means any dwelling, house, building or other structure designed to be used, either wholly or in part, for private residential purposes, whether inhabited, temporarily or continuously uninhabited, or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, mailbox, or other structure belonging or appurtenant to such dwelling, house, building or other structure.

PUBLIC PLACE means any and all streets, sidewalks, boulevards, alleys or other public ways, lakes, rivers, watercourses, fountains, and any and all parks, squares, spaces, grounds, and buildings frequented by the general public, whether publicly or privately owned.

VEHICLE means any device in, upon, or by which any person or property is or may be transported or drawn upon any highway, road, street, waterway, or other public thoroughfare. This term includes such devices as an automobile, truck, other motor vehicle, bicycle, tricycle, motorcycle, moped, animal-drawn wagon, cart, or buggy.

(Ord. No. 91-13, § 2, 5-8-91)

(b) No person shall throw, deposit, or unlawfully sell any handbill in or upon any public place. However, it shall not be unlawful for any person to disburse or distribute, without charge to the receiver, any handbill in any public place to any person willing to accept the handbill. (Ord. No. 91-13, § 3, 5-8-91)

(c) No person shall place any handbill in or upon private premises if requested by anyone on the premises not to do so, or if there is placed on the premises in a conspicuous position near any entrance a sign indicating that the occupants of the premises do not desire to have any handbills left upon the premises. (Ord. No. 91-13, § 4, 5-8-91)

(d) In the case of private premises upon which it is permitted to place a handbill or similar material, any person shall place or deposit any handbill in or upon the private premises in such a manner as to prevent the handbill from being carried by the elements about the premises or elsewhere. Mailboxes may not be used when prohibited by federal postal law or regulations. (Ord. No. 91-13, § 5, 5-8-91)

(e) No person shall deposit any handbill in or upon any vehicle unless the occupant of the vehicle, then present, is willing to accept it. (Ord. No. 91-13, § 6, 5-8-91)

(f) The provisions of this article shall not apply to the distribution of newspapers or political material, except that newspapers and political material shall be placed in such a manner as to prevent their being carried or deposited by the elements upon any public place or private premises. (Ord. No. 91-13, § 7, 5-8-91)

(g) It shall be the responsibility of any persons distributing handbills or causing handbills to be distributed to maintain the area which they are utilizing free of any litter caused by or related to the handbill distribution. (Ord. No. 91-13, § 8, 5-8-91)

(h) Any person, firm, or corporation violating the provisions of this article or causing a person to violate the provisions of this article shall be guilty of an offense and subject to the penalty prescribed herein. (Ord. No. 91-13, § 9, 5-8-91)

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(i) All distributors of handbills or other matter distributed shall stamp or print or affix the name, address and telephone number of the person, firm or corporation distributing the handbill.
(Ord. No. 91-13, § 10, 5-8-91)

Sec. 4-167 Penalties.

Greenwood Municipal Code Section 2-38, as amended, is hereby amended to include this ordinance in the list of ordinances scheduled for the jurisdiction of the Ordinance Violations Bureau with the stated specific penalty of Fifteen Dollars (\$15.00) (for the first violation within a calendar year) as follows:

<u>Ordinances or Code Provisions</u>	<u>Civil Penalty</u>
GMC Sec. 4-166 Distribution of Handbills (Ord. No. 91-13, §11, 5-8-91)	\$15.00

Any person, firm or corporation violating Section 4-166(i) above, shall be guilty of an offense, and shall be subject to the general penalty provisions of the Greenwood Municipal Code, Chapter 1, Section 1-13. (Ord. No. 91-13, §12, 5-8-91)

Sec. 4-168 through Sec. 4-169 Reserved for Future Use.

****Pages 230 - 232 Reserved for Future Use****

§ 4-170 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-171

ARTICLE 3. FRANCHISE GUIDELINES FOR CABLE TELEVISION.

Division I. General Provisions.

Sec. 4-170 Statutory Authority; Findings.

(a) Because the operation of a cable television system may require the permission of the City to use the public ways, and because the Council determines that it is proper and expedient to franchise systems as allowed by federal law; (Ord. 95-27, § 1, 8-21-95)

(b) The Council finds that it is in the interest of the City that the public ways be used to make cable television available to the people of the City. It is intended that the provisions of this Article should facilitate and encourage orderly and responsible development of a system which will provide the people of the City with cable television service which is versatile, reliable and efficient, which is responsive to the needs and interests of the community; and which provides the widest possible diversity of information sources and services to the public. The provisions of this Article shall be construed liberally to further this purpose. (Ord. No. 89-12, § 18-1, 6-19-89)

Sec. 4-171 Definitions.

As used in this Article:

(a) The term **THE ACT** means the Cable Communications Policy Act of 1984 (P.L. 98-549) (47 U.S.C. Sec. 521 *et seq.*) and includes amendments hereinafter adopted or similar federal laws supplementing or superseding the same;

(b) The term **AFFILIATE**, when used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person;

(c) The term **COMMITTEE** means the Cable Franchise Committee of the Greenwood Common Council appointed by the Mayor of the City of Greenwood;

(d) The term **CABLE CHANNEL** or **CHANNEL** means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel (as television channel is defined by the Federal Communications Commission by regulation):

(e) The term **OPERATOR** or **CABLE OPERATOR** means any person or group of persons (i) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or (ii) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system and who has been granted a franchise by the City or by any predecessor governmental officer or organization authorized to grant a franchise;

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(f) The term **CABLE SERVICE** means the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service;

(g) The term **CABLE TELEVISION SYSTEM, CABLE SYSTEM** or **SYSTEM** means a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within the City, but such term does not include (i) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (ii) a facility that serves only subscribers in one or more multiple-unit dwellings under common ownership, control, or management, unless such facility or facilities use any public right-of-way; (iii) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communication Act of 1934, as amended, except that such facility shall be considered a cable system (other than for purposes of Section 621 (c) of the Act (47 *U.S.C.* Section 621(c)) to the extent such facility is used in the transmission of video programming directly to subscribers; or (iv) any facilities of any electric utility used solely for operating its electric utility systems;

(h) The term **FRANCHISE** means an initial authorization, or renewal thereof (including a renewal of an authorization which has been granted subject to Section 626 of the Act (47 *U.S.C.* Section 626)), issued by the City, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a cable system;

(i) The term **OTHER PROGRAMMING SERVICE** means information that a cable operator makes available to all subscribers generally;

(j) The term **PERSON** means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity;

(k) The term **PUBLIC, EDUCATIONAL, OR GOVERNMENTAL ACCESS FACILITIES** means (i) channel capacity designated for public, educational, or governmental use; and (ii) facilities and equipment for the use of such channel capacity;

(l) The term **PUBLIC WAY** means the surface and the area above and below the surface of any public street, highway, lane, alley, sidewalk, path, right-of-way or easement, and any public utility easement or right-of-way dedicated generally for public utility uses but not including easements granted for purposes inconsistent with the cable system use;

(m) The term **SUBSCRIBER** means any person who contracts or agrees to purchase the regular subscriber service, pay television, or any other service provided by the cable system, and includes anyone legally using such service;

(n) The term **VIDEO PROGRAMMING** means programming provided by, or generally considered comparable to programming provided by, a television broadcast station;

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(o) The term **GROSS ACCRUED REVENUES** means any and all revenues derived from the cable television operations of grantee under the franchise granted by the City as those terms are defined herein and as reflected in the financial statements of grantee, but specifically excluding (i) any and all taxes or fees or services furnished by the grantee imposed directly on any subscriber or user by any city, county, state or other governmental unit, and collected by the grantee for such entity, (ii) any and all interest income from any source attributed to such cable television operations, (iii) any and all income derived by grantee from the sale and transfer of cable television assets, and (iv) any and all amounts of bad debts from such cable television operations that are written off by grantee;

(p) The term **CLERK** means the Clerk-Treasurer of the City of Greenwood while it is a third class city and City Clerk, if and when Greenwood becomes a second class city;

(q) The term **CITY** means the City of Greenwood, Johnson County, Indiana, a municipal corporation of the State of Indiana; and

(r) The term **COUNCIL** means the Greenwood Common Council. (Ord. No. 89-12, § 18-2, 6-19-89)

Sec. 4-172 Administration and Enforcement.

The Committee shall have the power and duty to:

(a) Prepare and recommend a form of franchising contract under the terms and procedures provided in this Article; and, in the event that more than one franchise is granted within the City, to ensure that all systems are compatible.

(b) Promulgate any and all rules and regulations which it deems necessary to enable it to carry out its duties under this Article; provided that, if within sixty (60) days after delivery of certification to the Clerk of the adoption of rules and regulations by the Committee, the Council shall, by Council action, disapprove or reject such rules and regulations, the adopted rules and regulations of the Committee shall be of no effect and the rules and regulations shall remain as they were in effect prior to disapproval or rejection by the Council. If the Council does not act within the sixty (60) days after delivery of certification, the rules and regulations adopted by the Committee shall become effective.

(c) Enforce the provisions of all cable franchises in the City. (Ord. No. 89-12, § 18-3, 6-19-89)

Sec. 4-173 Previously Awarded Franchises.

This Article shall apply to all franchises whether granted before, on, or after the original effective date of this Ordinance, except as herein otherwise provided. (Ord. No. 89-12, § 18-4, 6-19-89)

Sec. 4-174. Franchise Required.

No person or entity shall operate a cable system within the City without having first obtained a franchise from the City. However, so long as federal law exempts the following from local regulation, a franchise is not required for:

(a) A facility that serves only to retransmit the television signals of one or more television broadcast stations;

§ 4-174 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-180

(b) A facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way;

(c) A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, as amended, unless such facility is used in the transmission of video programming, whether on a common carrier or noncommon carrier basis directly to customers; or

(d) Any facilities of any electric utility used solely for operating its electric utility systems. (Ord. 95-27, § 2, 8-21-95)

Sec. 4-175 through 4-180 Reserved for Future Use.

****Pages 237 - 242 Reserved for Future Use****

§ 4-181 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-181

Division II. Application Procedures.

Sec. 4-181 Letter of Intent.

(a) Any person interested in obtaining a cable television franchise may file a letter of intent expressing such interest with the Clerk. The letter of intent must contain or be accompanied by:

- (1) A description of the geographic area proposed to be served;
- (2) A description of the type of service to be provided by the applicant; and

(3) An explanation of the reasons why the granting of a franchise for the area described would be in the interests of the City and its citizens. (Ord. No. 89-12, § 18-21, 6-19-89; Ord. No. 93-45, § 1, 12-20-93)

(b) Upon the receipt of a letter of intent, the Committee shall determine whether a request for proposals for a cable television franchise should be issued. The Committee may determine to issue a request for proposals for an area larger than the area requested in the letter of intent. In making its determination, the Committee may conduct such investigations as it deems appropriate, provided that the Committee shall hold at least one public hearing at which interested parties may appear and offer evidence concerning whether a request for proposals should be issued. Notice of the time and place of the public hearing shall be given in accordance with *I.C.*, 5-3-1. Personal notice of the time and place of public hearing shall be given by mail to the person who filed the notice of intent and to all other operators of cable systems regulated by this Article. The Committee's decision to issue or not issue a request for proposals shall be made within ninety (90) days of the date on which the letter of intent was received in the office of the Clerk.

(c) In making its determination whether to issue a request for proposals, the Committee shall consider whether the grant of a franchise would be in the best interests of the City and its citizens and in so determining shall consider the following factors:

- (1) The need for cable service;
- (2) Whether the granting of an additional franchise will provide an improvement in cable services in the City;
- (3) Whether the granting of an additional franchise furthers or impedes the purposes contained in Section 4-170;
- (4) Any other factors which the Committee considers relevant to assure the continued provision of cable services that are responsive to the needs and interests of the City and its citizens.

(Ord. No. 93-45, § 2, 12-20-93)

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(d) The Committee's determination will be made in writing and made a part of the records of the Committee.

(e) The Council shall affirm or reverse the Committee's decision by adopting a resolution to that effect. The Council shall hold such public hearings and meetings and conduct such investigations as it deems appropriate and may consider new evidence in making its determination. The Council's decision shall be based on the factors set forth in subsection (c) hereof.

(f) Nothing in this Section shall be construed to limit the power of the Council to issue a request for proposals on its own initiative.

Sec. 4-182 Requests for Proposals.

(a) In the event the Council determines, by resolution, to issue a request for proposals for a cable television franchise, it shall direct the Committee to prepare a request for proposals. In its request for proposals, the Committee shall establish the term of the franchise and such requirements as it deems appropriate, including, but not limited to, the following:

(1) That applicants provide designated channel capacity for public, educational or governmental uses and/or channel capacity on institutional networks for educational or governmental use;

(2) That applicants provide cable channels for commercial use in conformity with the requirements of the Act (47 U.S.C. Section 612);

(3) That applicants provide certain facilities and equipment related to the establishment or operation of the cable system;

(4) That applicants provide cable service to subscribers on a nondiscriminatory basis and provide such cable service to any group of residential subscribers regardless of the income of the residents of the local area in which such group resides;

(5) That the applicants agree to provide cable television service within the boundaries of the City as such boundaries exist as of June 1, 1989, and within areas annexed to the City after June 1, 1989, if there are twenty (20) homes per mile per additional mile of cable from the nearest trunk cable.

(b) The Committee shall require an application fee in its request for proposals, which fee shall be in the amount of One Hundred Dollars (\$100.00) plus two and one-half cents (\$0.025) for every home or apartment, hotel or motel unit in the geographic area covered by the request for proposals as specified in such request for proposal. (Ord. No. 89-12, § 18-22, 6-19-89)

Sec. 4-183 Application for Franchise.

(a) Upon the preparation of the request for proposals, the Committee shall give notice of the request for proposals by:

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- (1) Posting the notice in three (3) public places;
- (2) Publication of the notice once each week for two (2) weeks in two (2) newspapers of general circulation in the City;
- (3) Mailing of the notice to any person the Committee knows to be interested in submitting an application; and
- (4) Mailing of the notice to all existing cable operators in the City.

The Committee may, in its discretion, publish the notice in any newspaper of national circulation and in trade magazines or publications of the cable television industry.

(b) The notice shall name a date upon which applications must be received at the office of the Clerk and shall state that the forms of the request for proposals are available. The date for the receipt of the applications shall not be more than thirty (30) days following the first publication of the notice required by Section 4-183 (a). (Ord. No. 89-12, § 18-23, 6-19-89)

Sec. 4-184 Contents of Applications.

An application for franchise authority made in response to a request for proposals under Section 4-182, or made by an applicant after ninety (90) days of its filing of a letter of intent under Section 4-181 and where the Committee has not made a decision to issue a request for proposals, shall include the following information except to the extent the applicant can demonstrate to the City's satisfaction that requiring it to provide that information is unreasonable (Ord. No. 93-45, § 3, 12-20-93):

(a) A construction schedule. Such schedule must specify the period of time from the execution of the franchise within which cable television service shall be made available to areas having the density required under Section 4-182(a)(5).

(b) A schedule indicating the initial tap-in and connection charges and the monthly rates to be charged subscribers.

(c) A description of the insurance policies to be acquired in satisfaction of the requirements of this Article.

(d) A detailed statement of the corporate or other business entity organization of the applicant, including, but not limited to the following, and to whatever extent required by the City:

- (1) The names, residence and business address of all officers and directors of the applicant.
- (2) The names, residence and business addresses of all officers, persons and entities having, controlling or being entitled to have or control five (5) percent or more of the ownership of the applicant and the respective ownership share of each such person or entity.
- (3) The names and addresses of any affiliate of the applicant and a statement describing the nature of any such affiliate's business activity, including but not limited to cable television systems owned or controlled by the applicant, its affiliates, and the area served thereby.
- (4) A detailed description of all previous experience of the applicant in providing cable television system service and in related or similar fields.

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(5) A detailed and complete financial statement of the applicant, prepared by a certified public accountant, for the fiscal year next preceding the date of the application hereunder, or a letter or other acceptable evidence in writing from a recognized lending institution or funding source, addressed to both the applicant and the Committee, setting forth a clear statement of its intent as a lending institution or funding source to provide whatever capital shall be required by the applicant to construct and operate the proposed system in the City, or a statement from a certified public accountant, certifying that the applicant has available sufficient free net and uncommitted cash resources to construct and operate the proposed system in the City, or other acceptable evidence in writing that the applicant is financially capable of constructing and operating the proposed system.

(6) A statement identifying, by place and date, any other cable television franchises awarded to the applicant or its affiliates; the status of such franchise(s) with respect to completion thereof; the total cost of completion of such system(s); and the amount of the applicants' and its affiliates' resources committed to the completion thereof.

(e) A copy of any agreement covering the franchise area, if existing, between the applicant and any public utility subject to regulation by the Indiana Utility Regulatory Commission, providing for use of any facilities of the public utility, including, but not limited to, poles, lines or conduits.

(f) A detailed statement of technical specifications of the proposed system.

(g) A schedule indicating the initial channel line-up and tiering structures, if any.

(h) A statement identifying, by place and date, any other cable television franchises awarded to and subsequently disposed of by the applicant or its affiliates or subsidiaries and the reasons for such dispositions.

(Ord. No. 89-12, § 18-24, 6-19-89; Ord. No. 93-45, § 4, 12-20-93)

Sec. 4-185 Report on Application.

Upon receipt of the application(s) for a franchise, the Committee may refer the same to a consultant or other employee, who shall prepare an evaluation of the applications and a recommendation of which applicant, if any, should be granted a franchise. Such evaluation and recommendation shall be filed with the Committee within sixty (60) days of receipt of the applications. The Committee shall promptly notify the Council of the filing of applications or the evaluation report and recommendation, if applicable. (Ord. No. 89-12, § 18-25, 6-19-89)

§ 4-186 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-187

Sec. 4-186 Hearing on Application.

(a) Within forty (40) days of receipt of the application(s), or receipt of the report and recommendations by the Committee, if applicable, the Council shall hold a public hearing to take evidence and hear argument on whether to grant a cable television franchise to one or more of the applicants in the form proposed by the Committee. The Council shall base its determination hereunder on the criteria contained in Section 4-187. Notice of such hearing shall be given by publication in accordance with *I.C.*, 5-3-1, and if the Council deems appropriate, in one or more trade journals of the cable television industry.

(b) At the time set for such hearing, or an adjournment thereof, the Council shall proceed to hear all written protests and other submissions and to hear evidence and argument from any interested persons in addition to any applicants or potential applicants. A record shall be kept of such hearing and the evidence presented therein.

(c) The Council may propound regulations to govern the conduct of such hearings so as to allow for the orderly and efficient presentation of evidence and argument, and to prevent unnecessary duplication or delay. (Ord. No. 89-12, § 18-26, 6-19-89)

Sec. 4-187 Factors Governing Council's Determination.

In making any determination hereunder, the Council may consider the following factors to the extent permitted by law (Ord. No. 93-45, § 5, 12-20-93):

- (a) The quality of the service which the applicant promises and of which the applicant is capable;
- (b) The rates to the subscribers;
- (c) The income and expense to the City;
- (d) The needs of other users of the public right-of-way;
- (e) The effect on the ability of existing franchisees to perform their obligations under their franchises;
- (f) The experience, character, background and financial responsibility of any applicant, its management and owners;
- (g) The technical and performance quality of facilities and equipment related to the establishment or operation of a cable system;
- (h) The demonstrated willingness and ability of any applicant to meet construction and physical requirements and to abide by policies and limitations imposed by law or franchise;

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(i) Any other considerations deemed pertinent by the Council to its task of safeguarding the public health, safety and welfare, and facilitating and encouraging the orderly and responsible development of cable television systems which will provide the people of the City with cable television service which is versatile, reliable, and efficient. The Committee shall make its determinations based on the record with a written statement of its findings and conclusions, and the reasons therefore;

(j) The capacity of public rights-of-way and private property (including easements, poles and conduits) to accommodate such additional operator; and

(k) The likelihood that the applicant as the operator can maintain financially feasible operations over an extended period of time. (Ord. No. 89-12, § 18-27, 6-19-89; Ord. 93-45, § 6, 12-20-93)

Sec. 4-188 Council Action on Application.

Within forty-five (45) days after the conclusion of the hearing provided for in Section 4-186, the Council shall determine whether to grant a franchise to one or more of the applicants.

(a) If the Council shall determine after hearing that any application should be denied, such determination shall be final, unless an appeal is filed in federal court pursuant to authority under the Act. (Ord. 93-45, § 7, 12-20-93)

(b) If the Council shall determine after hearing that a franchise should be granted to one or more of the applicants, it shall adopt by resolution the terms of a franchise, to which the applicant shall indicate its agreement in writing within fifteen (15) days. If the applicant does not agree in writing to the terms of such franchise within fifteen (15) days, then its application shall be deemed denied.

(c) An application may not be amended after it is received by the Committee, except in any case in which only one application is received, said application may be amended for cause shown upon the unanimous consent of the Council.

(d) The successful applicant or applicants shall pay the City a sum of money sufficient to reimburse it for all of its publication, legal, consulting and other expenses incurred in connection with the granting of a franchise pursuant to the terms of this Article.

(e) No provision of this Article shall be construed to require the City to grant any franchise and the Council may reject any and all applications. (Ord. No. 89-12, § 18-28, 6-19-89)

Sec. 4-189 Council Action Upon Grant of Franchises.

Within thirty (30) days of the Council's resolution to grant a franchise, the Council shall introduce an ordinance approving and confirming the franchise. The Council shall act upon the ordinance within sixty (60) days of its introduction, except that such time may be extended by the Council for good cause. The Council may:

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(a) Adopt the ordinance, in which case the Mayor will be directed to execute the franchise, and ten (10) days after the Mayor signs the ordinance, the new operator shall pay by certified check payable to the City, an amount equal to that prescribed in Section 4-188(d).

(b) Defeat the ordinance, in which case the application shall be denied. (Ord. No. 89-12, § 18-29, 6-19-89)

Sec. 4-190 Additional Powers of Committee and Council.

(a) The Committee may also at any time, on its own motion, conduct public hearings to determine whether it is feasible or desirable to recommend to the Council to grant any cable television franchise by issuing a request for proposals. The Committee shall base its determination on the criteria contained in Section 4-181(c). Such hearings shall be advertised in accordance with the provisions of *I.C.*, 5-3-1.

(b) The Council may for good cause extend any of the time limits imposed in Sections 4-181 through 4-189. (Ord. No. 89-12, § 18-30, 6-19-89)

Sec. 4-191 through 4-200 Reserved for Future Use.

****Pages 250 - 259 Reserved for Future Use****

§ 4-201 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-202

Division III. Construction and Maintenance of System.

Sec. 4-201 Street Occupancy.

(a) All poles, cables and other fixtures placed by the operator within the public ways of the City shall be so located as to cause minimum interference with the proper use of the public ways and adjoining premises.

(b) If the disturbance of any public way is necessary, the operator shall comply with all provisions of the *Code* relevant to such disturbance and the repair policy of the Board of Public Works and Safety.

(c) If at any time during the period of the franchise the City shall elect to change the grade of any public way, the operator, upon reasonable notice by the City, shall relocate its poles, cables and other fixtures at no expense to the City.

(d) The operator shall have the authority to trim trees upon and overhanging the public ways of the City so as to prevent the branches of such trees from coming in contact with the cables and the equipment of the operator, except that, at the option of the City, such trimming may be done by it or under its supervision and direction.

(e) In all sections of the City where the cables, wires or other like facilities of public utilities are placed underground, the operator shall place its cables and other equipment underground to the maximum extent that existing technology reasonably permits.

(f) An operator having cable television franchise rights for a portion of the City shall have the right to use the public ways throughout the City as necessary or advisable for efficient construction, provided that cable television services may be provided only to subscribers located within the area of the operator's franchise, and use of the public ways outside the area of the operator's franchise shall not unreasonably interfere with the construction, operation and maintenance of a cable television system by an operator who has, or thereafter obtains, a franchise to serve subscribers in such outside area. The Committee shall have power to promulgate rules and regulations with respect to jointly used public ways as considered necessary or desirable. (Ord. No. 89-12, § 18-51, 6-19-89)

Sec. 4-202 Safety Requirements.

(a) The operator shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.

§ 4-202 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-214

(b) The operator shall install and maintain its cables and other equipment in accordance with the requirements of the National Electrical Safety Code promulgated by the National Bureau of Standards.

(c) All cables and other equipment within the public ways of the City shall at all times be kept and maintained in as safe condition as existing technology reasonably permits. (Ord. No. 89-12, § 18-52, 6-19-89)

Sec. 4-203 Erection and Removal of Poles.

No location of any pole or other wire-holding structure of the operator shall be a vested interest and such poles or structures shall be removed or modified by the operator at no expense to the City whenever the Board of Public Works and Safety determines that the public convenience so requires. (Ord. No. 89-12, § 18-53, 6-19-89)

Sec. 4-204 Inspection.

The City shall have the right to make such inspections as it shall find necessary to ensure compliance with the terms of this Article, the franchising contract, and other pertinent provisions of law. (Ord. No. 89-12, § 18-54, 6-19-89)

Sec. 4-205 Extension of Construction Schedule Deadlines.

Upon a determination that the operator, through no fault of its own, would otherwise be faced with undue hardship in meeting its construction schedule, the Committee may modify the construction schedule. (Ord. No. 89-12, § 18-55, 6-19-89)

Sec. 4-206 Minimum Extension Required.

Within three (3) years after the effective date of its franchise, the operator shall provide cable service, upon request to any home within the area its franchise with the City covers (Ord. No. 93-45, § 8, 12-20-93):

(a) within the boundaries of the City as such boundaries exist as of June 1, 1989; and

(b) within areas annexed to the City after June 1, 1989, if there are twenty (20) homes per mile per additional mile of cable from the nearest trunk cable. (Ord. No. 89-12, § 18-56, 6-19-89)

If the operator determines that it cannot provide this service within three (3) years, it shall notify the City of this determination as soon as possible after such determination is made. If the Committee determines that, under the circumstances experienced or anticipated by the operator, three (3) years is not a reasonable period of time for meeting this service requirement, it shall allow the operator additional time to meet the service requirement of this section. (Ord. No. 93-45, § 8, 12-20-93)

Sec. 4-207 through 4-214 Reserved for Future Use.

****Pages 262 - 269 Reserved for Future Use****

§ 4-215 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-218

Division IV. Rights and Duties of Operator and Customers.

Sec. 4-215 Subscribers' Rates and Charges.

(a) The City may regulate rates and charges to subscribers for signals distributed to the extent permitted by the franchise and the Act (47 U.S.C. Section 623) or any regulations promulgated pursuant thereto by the Federal Communications Commission.

(b) Regardless of whether the City regulates or is authorized to regulate rates and charges to subscribers, the operator shall not discriminate as to rates and charges among customers of cable service.

(c) In any request for proposals or as a condition of the renewal of existing franchises, the City may require and regulate the installation or rental of equipment which facilitates the reception of basic cable service by hearing-impaired individuals to the extent permitted by the Act (47 U.S.C. Section 623) or any regulations promulgated pursuant thereto by the Federal Communications Commission. (Ord. No. 89-12, § 18-61, 6-19-89)

Sec. 4-216 Public Service Systems.

At least one outlet for the basic regular subscriber service may be made available to all public and accredited private schools which the system passes. Additional service outlets for other public institutions and local government offices may be proposed in any applicant's bid. (Ord. No. 89-12, § 18-62, 6-19-89)

Sec. 4-217 Signal Quality Requirements.

(a) The operator shall maintain the cable system in accordance with the existing requirements of the Federal Communications Commission in order to avoid interference with the present television reception in the areas served by the operator.

(b) The cable system shall comply with all applicable technical standards, rules and regulations of the Federal Communications Commission contained in 47 C.F.R. Sec. 76.605 as now in effect or as hereafter amended. In the event the Federal Communications Commission repeals any such technical standard, the operator shall remain bound by such standard as it existed on the effective date of its franchise. (Ord. No. 89-12, § 18-63, 6-19-89)

Sec. 4-218 Cable Channels for Public, Educational, or Governmental Use and Leased Access.

(a) The operator shall provide any public, educational or governmental access channel required under its franchise on a non-discriminatory basis. The operator shall provide such services, facilities, or equipment relating to public, educational, or governmental use of channel capacity as are required under its franchise.

(b) The Committee may promulgate rules and procedures consistent with the operator's franchise for the use of channel capacity designated for public, educational or governmental access.

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(c) The operator shall have no authority to control the programs presented over any public access channel and shall have no legal liability for obscenity or pornography except for productions originating from facilities within the control of the operator. (Ord. No. 89-12, § 18-64, 6-19-89; Ord. No. 93-45, § 9, 12-20-93)

Sec. 4-219 Complaint and Service Procedure.

(a) The operator shall maintain an office easily accessible to the citizens of the City, which shall be open during all usual business hours, have a listed telephone, and be so operated that complaints and requests for repairs or adjustments may be received at any time, whether the office is open or closed.

(b) Maintenance service shall be available to correct major outages from 8:00 A.M. until 12:30 A.M. every day, including Saturdays, Sundays and holidays.

(c) Investigative action shall be initiated in response to all service calls, other than major outages, not later than the next business day after the call is received. Corrective action shall be completed as promptly as practicable. Appropriate records shall be made of service calls, showing when and what corrective action was taken.

(d) The operator shall furnish each subscriber written instructions that clearly set forth procedures for placing a service call or requesting an adjustment. These instructions shall also include a name, address and telephone number provided by the Committee, and a reminder that the subscriber can call or write for information regarding terms and conditions of the operator's franchise if the operator fails to respond to the subscriber's request for installation, service or adjustment within a reasonable period of time.

(e) In the event a subscriber does not obtain a satisfactory response or resolution to his request for service or an adjustment within a reasonable period of time, he may advise the Committee of his dissatisfaction in writing and the Committee shall investigate the matter and keep records with respect to all complaints. (Ord. No. 89-12, § 18-65, 6-19-89)

Sec. 4-220 Termination of Service.

Upon termination of service to any subscriber, the operator shall promptly remove its service drop and any converters, descramblers or devices from the premises of such subscriber upon request. (Ord. No. 89-12, § 18-66, 6-19-89)

Sec. 4-221 through 4-229 Reserved for Future Use.

****Pages 272 - 280 Reserved for Future Use****

§ 4-230 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-232

Division V. Rights and Duties of Operator and City.

Sec. 4-230 Franchise Fee.

(a) The operator shall pay annually to the City either an amount equal to three percent (3%) of the gross accrued revenues from cable television operations taken in during the year or such amount as provided in the franchise.

(b) The operator shall be prohibited from prepaying franchise fees on estimated annual revenues at the time of bidding for a new franchise. (Ord. No. 89-12, § 18-80, 6-19-89)

Sec. 4-231 Construction Bond.

(a) Within thirty (30) days after the effective date of a new franchise, the franchise holder shall obtain at its cost and expense, and file with the City Attorney of the City of Greenwood, a construction bond issued by a company licensed to do surety business in the State of Indiana and deemed acceptable by the Greenwood City Attorney, in an amount deemed reasonable by the Committee to guarantee the timely construction and full activation of the cable television system, considering the nature and extent of the system and the estimated costs of construction.

(b) Any extension to the prescribed construction schedule must be authorized by the Council. Such extension shall be authorized only when the Council finds that such extension is necessary and appropriate due to causes beyond the control of the franchise holder.

(c) The construction bond shall be terminated only after the Council finds that the franchise holder has satisfactorily completed and fully activated the cable television system in the franchise area.

(d) The rights reserved to the City with respect to the construction bond are in addition to all other rights of the City, whether reserved by this franchise or authorized by law, and no action, proceeding, exercise or failure to exercise any right with respect to such construction bond shall affect any other right the City may have. (Ord. No. 89-12, § 18-81, 6-19-89)

Sec. 4-232 Liability, Indemnification and Insurance.

(a) The operator shall indemnify, protect and save harmless the City from and against losses and physical damage to property, and bodily injury or death to persons, including payments made under any workmen's compensation law, which may arise out of or be caused by the operator's negligence or misconduct in the erection, maintenance, presence, use or removal of all cable system equipment of any kind or nature whatsoever within the City, or by any negligent act or misconduct of operator, its agent or employees.

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(b) The operator shall carry insurance to protect itself, the utility companies and the City from and against all claims, demands, actions, judgments, costs, expenses and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. Such insurance policy shall specifically provide that the City and the utility companies shall be named insureds. The amounts of such insurance against liability due to physical damage to property shall be not less than Fifty Thousand Dollars (\$50,000.00) as to any one claim and not less than Two Hundred Thousand Dollars (\$200,000.00) aggregate in any single policy year; death of persons, not less than One Hundred Thousand Dollars (\$100,000.00) as to any one person, and not less than Three Hundred Thousand Dollars (\$300,000.00) as to all such claims arising from any one accident. The operator shall also carry such insurance as it deems necessary to protect it, the utility companies and the City from all claims under the workmen's compensation laws in effect that may be applicable to the operator. All insurance required by this Section shall be and remain in full force and effect for the entire period of the franchise. (Ord. No. 89-12, § 18-82, 6-19-89)

Sec. 4-233 City's Use of Poles.

The operator shall grant to City, free of expense, joint use of any and all poles owned by it for any proper municipal purpose insofar as such use may be accomplished without interfering with the free use and enjoyment of the operator's own wires and fixtures; and City shall indemnify and defend the operator from any and all actions, causes of actions or damage caused by placing of the City's wires or appurtenances upon poles of the operator. Proper regard shall be given to all existing safety rules governing construction and maintenance in effect at the time of construction. (Ord. No. 89-12, § 18-83, 6-19-89)

Sec. 4-234 Emergency Use of Facilities.

In the case of any disaster, duly declared by the Mayor, the operator shall, upon request of the Mayor, make available to the City, for emergency use during the disaster period, all facilities not necessary to the operator in fulfilling its other legal obligations. (Ord. No. 89-12, § 18-84, 6-19-89)

Sec. 4-235 Transfer of Franchise.

(a) Any franchise granted by the City shall not be assigned, transferred, sold or disposed of, without the prior consent of the City expressed by resolution of the Council, unless the franchise has had the same owner(s) for the past three years and the Council fails to give or deny consent within one hundred twenty (120) days of receipt of a request from the owner(s) or operator for approval of a sale or transfer. The Council's consent shall not be unreasonably withheld provided that the proposed assignee agrees to comply with all the provisions of this Ordinance and the franchise being transferred and is able to provide proof of financial responsibility and other qualifications reasonably satisfactory to the City. Unless consent is obtained, such a transferee shall not obtain the rights to operate the cable system. (Ord. No. 93-45, § 10, 12-20-93)

(b) No consent by the City shall be required for a deed of trust, mortgage or other instrument or hypothecation to secure an indebtedness of the operator or for any transfer or assignment to a parent, affiliate or subsidiary of the operator, but notice of such transfer or assignment shall be given ten (10) days before the effective date of such a transfer or assignment.

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(c) The consent of the City to any sale or other transfer shall not constitute a waiver or release of any of the rights of the City under a franchise or this Article. (Ord. No. 89-12, § 18-85, 6-19-89)

Sec. 4-236 Modifications of Franchise.

Any operator may obtain a modification of the requirements of its franchise to the extent permitted by and in accordance with the procedures set forth in the Act (47 *U.S.C.* Section 625). A request for modification shall be filed with the Clerk and must be approved by the Committee and the Council in order to be effective. (Ord. No. 89-12, § 18-86, 6-19-89)

Sec. 4-237 through Sec. 4-259 Reserved for Future Use.

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§ 4-260 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-262

Division VI. General Regulatory Provisions.

Sec. 4-260 Compliance with Other Applicable Laws.

(a) The operator shall conform to all laws, rules and regulations of the United States and of the State of Indiana in the construction and operation of its cable system; and all rules and regulations of the Federal Communications Commission relating to cable television franchises, as now enacted or subsequently amended, are incorporated herein by reference. The operator shall take such additional action as is necessary to incorporate formally in the terms of this Article and the franchise any modifications required by amendments of applicable federal and state laws, rules and regulations governing the contents of cable television franchises.

(b) A franchise granted pursuant to this chapter authorizes only the operation of a cable television system, and does not take the place of any other franchise, license or permit which law requires of the operator.

(c) Nothing herein shall be construed to prohibit operator from requesting a waiver of any state or federal rule or regulation, provided that a copy of such request shall be served upon the City. (Ord. No. 89-12, § 18-101, 6-19-89)

Sec. 4-261 New Developments.

It shall be the policy of the City liberally to amend this Article and the franchise, upon application of the operator, when necessary to enable the operator to take advantage of any developments in the field of cable television which will afford it an opportunity to better serve its subscribers; however, this section shall not be construed to require the City to initiate any amendment. (Ord. No. 89-12, § 18-102, 6-19-89)

Sec. 4-262 Reports to be Filed with Clerk.

(a) The operator shall, upon request, provide the City with a copy of the operator's true and accurate strand maps or plats of the cable system and proposed cable system to be constructed for the areas to be determined by the City at the time of the request.

(b) The operator shall, at the time of payment of the franchise fee, file with the Clerk a report of the revenue upon which the franchise fee is derived.

(c) The operator shall, upon request, file with the Clerk a copy of any formal communications received from or required to be filed with any other governmental agency, including the Federal Communications Commission, except tax returns and determinations.

(d) Upon the request of the Committee or the Mayor, the operator shall file with the Clerk a certificate of insurance for policies of insurance required by this Article.

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(e) The operator (unless a corporation having issued securities is required to file with the Federal Securities and Exchange Commission (SEC) an Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 utilizing the SEC form 10-k) shall keep on file with the Clerk a current list of its shareholders, partners, bondholders, and all other persons owning any financial interest in the operator.

(f) The operator shall keep on file with the Clerk such information requested by the Committee or Council as is reasonably necessary to ensure that the operator is in compliance with its franchise and this Article. (Ord. No. 89-12, § 18-103, 6-19-89)

Sec. 4-263 Inspection of Records and Facilities.

The City shall have the right to inspect the operator's books and other business records pertaining to the franchise fee for audit purposes, and its studios, equipment and other facilities at any time during normal business hours. (Ord. No. 89-12, § 18-104, 6-19-89)

Sec. 4-264 through 4-269 Reserved for Future Use.

****Pages 309 - 314 Reserved for Future Use****

§ 4-270 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-271

Division VII. Termination of Franchise.

Sec. 4-270 Term and Renewal of Franchise.

(a) Any franchise granted pursuant to Article II hereof shall take effect and be in force from and after its effective date for a term specified in the franchise not to exceed fifteen (15) years upon the conditions set forth in this Article and the franchise.

(b) A franchise may be renewed in accordance with the procedures and standards specified in the Act (47 U.S.C. Section 626).

(c) Any requirement for public notice of any proceeding conducted pursuant to the Act (47 U.S.C. Section 626) shall be given in accordance with *I.C.*, 5-3-1 or other applicable provision of state law and shall also be given by the cable operator whose franchise is being considered for renewal on at least one channel of the cable system pursuant to rules for such notice established by the Committee. (Ord. No. 89-12, § 18-111, 6-19-89)

Sec. 4-271 Penalties and Forfeiture of Franchise.

(a) For certain violations of the provisions of this Article, civil penalties shall be chargeable as follows:

(1) For failure to complete construction and installation of the system and commencement of providing service in accordance with Sections 4-184 (a) and 4-206, unless the Council specifically approves the delay by resolution because of reasons beyond the control of the operator, the operator shall pay Two Hundred Dollars (\$200.00) each day or part thereof that the failure continues following thirty (30) days after receipt of notice from the City of the condition or act on which the violation is charged.

(2) For failure to provide data and reports as requested in writing by the Council or Committee pursuant to this Article or the franchise, following thirty (30) days after receipt of written notice from the City, the operator shall pay Fifty Dollars (\$50.00) each day or part thereof that such failure continues.

(3) For failure to pay the franchise fee within ten (10) business days following receipt of written notice from the City that said fee is due, the franchise holder shall pay Two Hundred Dollars (\$200.00) each day or part thereof that the failure continues.

(b) It shall be a defense to any violation chargeable above that if it should be impossible to perform the activity or satisfy the condition of the said violation within the notice period, then the operator shall have a reasonable period of time to perform such act or satisfy such condition.

(c) Any violation by the operator of the material provisions of this Article or the franchise shall be cause for the forfeiture of the franchise rights thereunder, provided that City shall first notify the operator in writing of the condition or act on which the violation is charged, and the operator shall have thirty (30) days from receipt of such notice to remedy such condition or act; and provided, further, that should it be impossible to correct the said violation within said thirty (30) days, then the

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operator shall have a reasonable time to make said corrections. Failure to pay all monies due from the operator to the City hereunder after thirty (30) days from receipt of written notice by the City to operator shall be grounds for revocation of the franchise.

(d) Termination and cancellation may be effected only by ordinance of the Council, and shall in no way affect any other of the City's rights under this Article, the franchise, or any provision of law. Before the franchise may be terminated and canceled under this Section, the operator must be provided with thirty (30) days' notice and an opportunity to be heard before the Council or its designated committee. In any event, any decision by the Council may be challenged by the operator in a court of competent jurisdiction. (Ord. No. 89-12, § 18-112, 6-19-89)

Sec. 4-272 Final Termination of the Franchise.

Upon expiration or forfeiture of the franchise, as provided for in this Article, the Council shall have the right to determine whether the operator shall continue to maintain and operate the cable television system pending the decision of the City as to the future maintenance and operation of the system. The operator shall not be required to operate the system beyond the date of transfer under the Act (47 U.S.C. 627). The operator shall be entitled to all benefits of such extended operation. (Ord. No. 89-12, § 18-113, 6-19-89)

Upon the termination of the franchise, the operator, if requested to do so by City, shall remove its cables, wires and equipment from all poles of City and all space reserved for City's use on poles belonging to others. If not so removed upon prior written request, City shall have the right to remove or have its contractor remove them at the risk, cost and expense of the operator and without any liability therefor. (Ord. No. 89-12, § 18-114, 6-19-89)

Sec. 4-273 through 4-285 Reserved for Future Use.

****Pages 317 - 329 Reserved for Future Use****

§ 4-286 FEES, LICENSES, PERMITS, AND FRANCHISES § 4-286

ARTICLE 4. INTERLOCAL GOVERNMENTAL COOPERATION.

Sec. 4-286 Ordinance or Resolution Required.

The City is authorized to enter into interlocal governmental agreements which are in the best interests of the City of Greenwood. Said agreements shall be approved by the passage of an appropriate ordinance or resolution.

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